

**STATUTES OF NATAL,
SUPPLEMENT.**

STATUTES OF NATAL,

BEING A

SUPPLEMENT

To Volumes 1, 2, and 3 of the Compilation of Statutes of the Colony of Natal from the years 1845 to 1900, inclusive, commonly known as "Hitchins' Statutes,"

CONTAINING

ALL THE STATUTES OF THE COLONY (ACTS OF SUPPLY EXCEPTED) FROM 1901 TO 1906, INCLUSIVE, WHICH ARE AT PRESENT IN FORCE,

TOGETHER WITH

A CHRONOLOGICAL TABLE, CONTENTS TABLES, AND FOOTNOTES GIVING REFERENCES TO ENGLISH AND COLONIAL DECISIONS.

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PREFACE.

FIVE YEARS have elapsed since the publication of the third volume of "Statutes of Natal," and during that period some two hundred and fifty Acts have been passed by the Natal Legislature, of which two hundred and thirty-five (not counting Acts of Supply) are still in force. It therefore seemed that the time had arrived for a Supplement to be issued which would classify the new statutes in the same manner as before, and serve in some measure to assist both old and new practitioners to find their statute law with the least possible amount of trouble.

Criticisms upon the original work have been kind and indulgent. That there was in the compass of the first three volumes room for improvement in many respects is a fact which has been taken to heart, and, it is hoped, will be found in the present volume to have been acted upon with advantage. Improvements have been attempted both in method and execution. Whilst there is no General Index to the Supplement, it is believed that the omission will be more than compensated for by the Contents Tables which precede every Act of length and importance, and by numerous Cross References.

In regard to the classification of the Acts, the original idea has been followed as closely as possible—namely, to find what might

be called the common measure of any group of statutes. The advantages of this system over a narrow classification cannot fail to become more apparent as legislation accumulates.

At the same time it has been sought to avoid inconveniences and absurdities which would arise from too rigid adherence to this principle. It might be said, for example, that the "Adulteration of Food Act, 1901," is logically referable to the title PUBLIC HEALTH, but probably not more than one person in ten would look for it under that heading. The same might be said also of the "Vaccination Act, 1906."

Where legislation has been introduced on an entirely new topic and there has been similar legislation in England, the author has adopted (whenever possible) the title already selected in England by the learned editor of "Chitty's Statutes," confiding that if fault is found with the choice he can at least be said to have erred in good company. This must be the answer to anyone who urges that "Revenue" or "Succession Duties" would have been preferable to DEATH DUTIES as the title for Act No. 35, 1905.

If the Supplement is found worthy of any measure of the praise kindly accorded to the principal work, a due proportion must fall to the share of Mr. G. W. Sweeney, who has again made some useful contributions of case law and subjected the proofs to a very searching revision.

R. L. H.

London, April, 1907.

NO. OF ACT.	TITLE OR SUBJECT MATTER.	OBSERVATIONS.
26 of 1901	P.M.BURG CORPORATION ...	
27 " "	REVENUE—STAMPS ...	
28 " "	BOILERS ...	
29 " "	LOANS ...	
30 " "	POLICE ...	
31 " "	GOVERNMENT SECURITIES ...	
32 " "	INTOXICATING LIQUORS ...	
33 " "	REVENUE—EXCISE ...	
34 " "	COURTS (SUPREME) ...	
35 " "	ROAD BOARDS ...	
36 " "	RAILWAYS ...	
37 " "	REVENUE—EXCISE ...	
38 " "	DESTITUTE PERSONS ...	
39 " "	COURTS (SUPREME) ...	
40 " "	OSTRICHES ...	
41 " "	INDEMNITY LAW ...	
42 " "	Lands Improvement ...	
43 " "	CIVIL SERVICE ...	Repealed by Act 40, 1904.
44 " "	PUBLIC HEALTH ...	
45 " "	FOOD & DRUGS ADULTERATION ...	
46 " "	LABOUR TOUTS ...	
47 " "	COURTS (NATIVE) ...	
48 " "	IMMIGRATION (INDIAN) ...	
49 " "	MASTER & SERVANTS (NATIVE) ...	
50 " "	" " " "	
1 of 1902	Public Health ...	Expired.
2 " "	PROBATE ...	
3 " "	GAMBLING ...	
4 " "	SHIPPING ...	
5 " "	REGISTRATION (BIRTHS, &c.) ...	
6 " "	PENSIONS ...	
7 " "	PUBLIC EMPLOYEES ...	
8 " "	P.M.BURG CORPORATION ...	
9 " "	FENCES ...	
10 " "	ARCHITECTS ...	
11 " "	VILLAGES (WATER SUPPLY) ...	
12 " "	RAILWAYS ...	
16 " "	PENSIONS ...	
17 " "	IMMIGRATION (INDIAN) ...	
18 " "	GRASS FIRES ...	
19 " "	Revenue—Customs ...	Obsolete.
20 " "	TRAMWAYS & ELECTRICITY ...	
21 " "	Criminal Law ...	
22 " "	INDEMNITY LAW ...	Repealed by Act 31, 1903.
23 " "	IMMIGRATION (INDIAN) ...	
24 " "	LANDS IMPROVEMENT ...	
25 " "	NATIVE LAW ...	
26 " "	NATAL NATIVE TRUST ...	
27 " "	" " " "	

NO. OF ACT.	TITLE OR SUBJECT MATTER.	OBSERVATIONS.
28 of 1902	MUNICIPAL CORPORATIONS ...	
29 " "	Railways	Expired.
30 " "	INDEMNITY LAW	
1 of 1903	NORTHERN DISTRICTS	
2 " "	IMMIGRATION (INDIAN)	
3 " "	PARLIAMENT	
5 " "	NAVAL SERVICE	
6 " "	EDUCATION	
7 " "	CONTRACTS	
8 " "	REGISTRATION (DEEDS)	
9 " "	RAILWAYS	
10 " "	EXPLOSIVES	
11 " "	NATAL MUSEUM	
12 " "	POST OFFICE	
14 " "	Revenue—Customs	Repealed by Act 9, 1906.
15 " "	DURBAN CORPORATION	
16 " "	P.M.BURG CORPORATION	
17 " "	Revenue	Expired.
18 " "	P.M.BURG CORPORATION	
19 " "	NEWCASTLE CORPORATION	
20 " "	LADYSMITH CORPORATION	
21 " "	DUNDEE CORPORATION	
22 " "	Verulam Local Board	Repealed by Act 33, 1905.
23 " "	TRAMWAYS & ELECTRICITY	
24 " "	" "	
25 " "	PARLIAMENT	
26 " "	INDEMNITY LAW	
27 " "	ANIMALS DISEASES	
28 " "	" "	
29 " "	DOGS	
30 " "	IMMIGRATION (RESTRICTED)	
31 " "	CRIMINAL LAW	
32 " "	ANIMALS (DISEASES)	
34 " "	Revenue—Excise	Repealed by Act 10, 1906.
35 " "	REVENUE—CUSTOMS	
36 " "	MILITIA	
37 " "	ZULULAND	
38 " "	P.M.BURG CORPORATION	
39 " "	Railways	Expired.
40 " "	LOANS	
41 " "	EDUCATION	
42 " "	GREY'S HOSPITAL	
43 " "	PUBLIC HEALTH	
44 " "	MARRIAGE (NATIVES)	
45 " "	RAILWAYS	
46 " "	" "	
47 " "	NATIVE LAW	
48 " "	NATIVES IN GENERAL	
49 " "	" "	

CHRONOLOGICAL TABLE.

NO. OF ACT.	TITLE OR SUBJECT MATTER.	OBSERVATIONS.
50 of 1903	SHIPPING	
1 of 1904	CRIMINAL LAW	
2 " "	MUNICIPAL CORPORATIONS	
3 " "	MASTER & SERVANTS (NATIVE)	
4 " "	Game	Repealed by Act 8, 1906.
7 " "	IMMIGRATION (RESTRICTED)	
8 " "	Revenue	Expired.
9 " "	PUBLIC HEALTH	
10 " "	POST OFFICE	
11 " "	TELEGRAPH	
12 " "	LANDS IMPROVEMENT	
13 " "	WILD BIRDS PROTECTION	
14 " "	OATHS	
15 " "	REGISTRATION (DEEDS)	
16 " "	RAILWAYS	
17 " "	"	
19 " "	NATAL NATIVE TRUST	
20 " "	PENSIONS	
21 " "	REVENUE	
22 " "	CRIMINAL LAW	
23 " "	CONVEYANCERS	
24 " "	MILITARY MANŒUVRES	
25 " "	JUDGES	
26 " "	Railways	Expired.
27 " "	RAILWAYS	
28 " "	LOANS	
29 " "	Shops Regulation... ..	
30 " "	P.M.BURG CORPORATION	Repealed by Act 36, 1905.
31 " "	DURBAN CORPORATION	
32 " "	LADYSMITH CORPORATION	
33 " "	DUNDEE CORPORATION	
34 " "	RAILWAYS	
35 " "	COMMONAGES... ..	
36 " "	DURBAN CORPORATION	
37 " "	DENTISTS	
38 " "	COURTS (SUPREME)	
39 " "	JURIES	
40 " "	LANDS IMPROVEMENT	
41 " "	RAILWAYS	
43 " "	Pensions	Obsolete.
44 " "	AGRICULTURE	
45 " "	PLANTS (DISEASED)	
46 " "	LOANS	
47 " "	ASSURANCE & INSURANCE COYS.	
48 " "	CONTRACTS	
1 of 1905	RAILWAYS	
2 " "	LOANS	
3 " "	RAILWAYS	

NO. OF ACT.	TITLE OR SUBJECT MATTER.	OBSERVATIONS.
4 of 1905	CIVIL SERVICE	
5 " "	COURTS (SUPREME)	
6 " "	TRAMWAYS (SUBURBAN)	
7 " "	RAILWAYS	
8 " "	PUBLIC HEALTH	
10 " "	RAILWAYS	
11 " "	"	
12 " "	POUNDS	
13 " "	DUNDEE CORPORATION	
14 " "	PUBLIC EMPLOYEES	
15 " "	CRIMINAL LAW	
18 " "	ALIENS	
19 " "	REVENUE—CUSTOMS	
20 " "	Railways	Expired.
21 " "	COURTS (SUPREME)	
22 " "	DERELICT STOCK FUND	
23 " "	DURBAN CORPORATION	
25 " "	REVENUE—EXCISE	
26 " "	REVENUE—STAMPS, &c.	
27 " "	INTOXICATING LIQUORS	
28 " "	SURVEYORS	
29 " "	P.M.BURG CORPORATION	
30 " "	MILITIA	
31 " "	ZULULAND	
32 " "	COURTS (MAGISTRATES')	
33 " "	VERULAM LOCAL BOARD	
34 " "	MINES & COLLIERIES	
35 " "	DEATH DUTIES	
36 " "	SHOP HOURS	
37 " "	DURBAN CORPORATION	
38 " "	TAXES	
39 " "	IMMIGRATION (INDIAN)	
40 " "	NATAL NATIVE TRUST	
41 " "	CRIMINAL LAW	
42 " "	IMMIGRATION (INDIAN)	
1 of 1906	ARMS, AMMUNITION, &c.	
2 " "	EXPLOSIVES	
3 " "	IMMIGRATION (RESTRICTED)	
4 " "	LOANS	
5 " "	RIFLE ASSOCIATIONS	
8 " "	GAME	
9 " "	REVENUE—CUSTOMS	
10 " "	REVENUE—EXCISE	
11 " "	ROADS (MAIN)	
12 " "	EVIDENCE & WITNESSES	
13 " "	EXTRADITION	
14 " "	PARLIAMENT	
15 " "	ZULULAND	
16 " "	RAILWAYS	

NO. OF ACT.	TITLE OF SUBJECT MATTER.	OBSERVATIONS.
17 of 1906	DURBAN CORPORATION	
18 " "	EMPLOYERS' LIABILITY	
19 " "	SHEEP (DISEASE IN)... ..	
20 " "	RAILWAYS	
21 " "	DEATH DUTIES	
22 " "	ARMS, AMMUNITION, &c.	
23 " "	PUBLIC IMPROVEMENTS	
24 " "	VACCINATION	
25 " "	VRYHEID LOCAL BOARD	
26 " "	FOREIGN ENLISTMENT	
27 " "	DURBAN CORPORATION	
29 " "	GREYTOWN LOCAL BOARD	
30 " "	NATAL NATIVE TRUST	
31 " "	FISH	
32 " "	GAOLS	
33 " "	DURBAN CORPORATION	
34 " "	RAILWAYS	
35 " "	FIRMS (REGISTRATION OF)	
36 " "	MILITIA	
37 " "	DURBAN CORPORATION	
38 " "	PUBLIC EMPLOYEES	
39 " "	PUBLIC HEALTH	
40 " "	P.M.BURG CORPORATION	
41 " "	" "	
42 " "	" "	
43 " "	ASSURANCE, &c., COMPANIES	
44 " "	INTOXICATING LIQUORS	
45 " "	ROYAL ARMS, &c.	
46 " "	ANIMALS (DISEASES)... ..	
47 " "	LOANS	
48 " "	DURBAN CORPORATION	
49 " "	RAILWAYS	
50 " "	" "	
51 " "	INDEMNITY	
52 " "	FENCES	
53 " "	LOANS	
54 " "	ANIMALS (DISEASES)... ..	
55 " "	RAILWAYS	

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TABLE OF ABBREVIATIONS.

- A. & E.** Adolphus and Ellis's Reports.
- App. Cas.** Law Reports, New Series, Appeal Cases.
- Beav.** Beavan's Reports.
- Bell C.C.** Bell's Crown Cases.
- C.A.** Court of Appeal.
- C.B., N.S.** Common Bench Reports, New Series.
- Ch. D.** Law Reports, New Series, Chancery Division.
- De G. & J.** De Gex and Jones's Reports.
- De G. J. & S.** De Gex, Jones, and Smith's Reports.
- Ex.** Welsby, Hurlstone, and Gordon's Reports.
- Ex. D.** Law Reports, New Series, Exchequer Division.
- H. & C.** Hurlstone and Coltman's Reports.
- H. & N.** Hurlstone and Norman's Reports.
- Jur., N.S.** Jurist, New Series.
- L.J.** Law Journal.
- L.R.** Law Reports.
- L.R., Ir.** Law Reports (Ireland).
- L.T.** Law Times.
- Macq. H.L. Cas.** Macqueen's Appeal Cases (Scotch).
- N.L.J.** Natal Law Journal.
- N.L.R.** Natal Law Reports.
- P.C.** Privy Council.
- Q.B.D.** Law Reports, New Series, Queen's Bench Division.
- W.R.** Weekly Reporter.

ADMINISTRATION (LETTERS OF)

[See "PROBATE."]

ADULTERATION OF FOOD, &c.

[See "FOOD AND DRUGS (ADULTERATION)"]

AGRICULTURE.

[See "LANDS IMPROVEMENT."]

The Agricultural Development Act, 1904.

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Act No. 44, 1904.

“ To aid and encourage the Agricultural Development of Natal.”

[19th August, 1904.]

WHEREAS it is expedient to provide for the settlement of persons of European descent on the uncultivated and waste lands of the Colony, and generally to aid and encourage the development of agriculture :

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

PART I.

Preliminary.

- | | |
|---|----------------------|
| <p>1. This Act may be known as “ The Agricultural Development Act, 1904.”</p> | <p>Short Title</p> |
| <p>2. This Act shall come into operation upon such date after the passing thereof as the Governor in Council shall appoint by proclamation.</p> | <p>Commencement.</p> |
| <p>3. In this Act—</p> <p>“ Reside ” means to have one's ordinary habitation on and to live upon the land not less than nine months in each year.</p> <p>“ Improvements ” means fences, houses, farm buildings, roads, dams, reservoirs, wells, mills, windmills, permanent irrigation channels, water pipes, drains, dipping tanks, the improvement of pasture, planting of trees, increase of value effected by the application of approved manures, and any other works or things, which may include ploughing, tending to improve the agricultural or pastoral value of the land, which may by order of the Governor in Council be notified in the <i>Natal Government Gazette</i> as being added to the above list.</p> <p>“ Crown Lands ” means any unoccupied lands belonging to the Government of Natal, other than such as may be specially exempted from the operation of this Act by order of the Governor in Council.</p> <p>“ Private Lands ” means lands not belonging to or occupied by His Majesty's Imperial or Colonial Government.</p> <p>“ Rural Lands ” means lands outside the limits of a Borough or statutory township or of any township</p> | <p>Definitions.</p> |

Act 44, 1904.

or village under any Law or Act relating to such, or of any village or any group of houses which in the opinion of the Minister is of an urban and not of a rural character.

“ Owner ” means the registered holder of land held under freehold or quit rent tenure, or the purchaser of Crown Lands to which title has not yet been given.

“ The Minister ” means the Minister having charge of the Department entrusted with the administration of this Act.

“ Proper Officer ” means the officer charged with the performance of a particular duty.

“ Settler ” includes a lessee of land under this Act, and his successors in title.

“ Holding ” includes a lease or allotment.

Rural Lands.

4. This Act shall apply only to rural lands.

Land Board.

5. For the administration of this Act there shall be a Board called a “ Land Board.”

Formation of.

6. The Land Board shall consist of five members, as follows:—The Secretary to the Minister of Agriculture and four persons with a knowledge of agriculture and other farming pursuits appointed from time to time by the Governor in Council, and hereinafter referred to as the nominated members.

Conditions.

7. The members shall be persons not holding seats in either of the Houses of Parliament; they shall not whilst holding office either acquire or sell land under this Act; nor shall they receive any assistance for the purpose of land settlement under this Act.

Term of office.

8. A nominated member shall hold office for not more than three years at a time, but may be re-appointed, and may at any time resign or be removed by the Governor in Council for any sufficient cause.

Retirement.

9. Nominated members shall retire by rotation on the 30th day of June, year by year; the member to retire on the 30th day of June, 1905, shall be chosen by ballot, and the member to retire on the 30th June, 1906, shall be chosen by ballot from the other three, and the member to retire on the 30th June, 1907, shall be chosen by ballot from the other two.

Vacancy.

10. In the event of a vacancy occurring before the expiry of any member's term of office, the member appointed in his place shall hold office only till the expiry of such term.

Chairman.

11. The Board shall elect a Chairman at its first meeting in each year. In the absence of the Chairman from any meeting, the members may elect one of their number as Chairman for the time being.

12. Members of the Board shall hold office for not more than three years at a time, but may be re-appointed, and may at any time resign or be removed by the Governor in Council. **Act 44, 1904.**
Tenure of office.

13. Each unofficial member shall be entitled to receive payment at the rate of one guinea a day whilst attending meetings of the Board, and when inspecting land or travelling on the business of the Board, he shall receive one guinea a day and travelling allowances at the same rate as that allowed to permanent heads of Government departments. Payment of members.

14. The Governor may appoint any person temporarily as a member of the Board during the absence or inability of any member to attend. Acting appointment.

15. The Governor in Council may from time to time make regulations for all purposes necessary for the administration of this Act. Regulations.

16. The regulations may, amongst other things, define the conditions under which permission may be given to a settler to transfer, sub-let, or surrender his holding. Conditions of Transfer, etc.

17. The regulations may empower the Board, subject to such conditions as shall be prescribed, to allow any modification of the stringency of this Act as to residence or other requirements in regard to the tenure and occupation of land which may be expedient: Provided that such alteration be not in any wise contrary to the tenor of this Act, or calculated to lessen the efficiency of its operation. Power to modify Act.

18. All leases issued under this Act shall be in such form and shall contain such terms and conditions as may be prescribed by the regulations, including, in particular, reservations or servitudes regarding roads, railways, telegraphs, minerals, forests, water, and other matters of public utility. Leases.

19. No settler, without the written permission of the Board, shall mortgage, charge, or otherwise encumber his holding, or any interest therein, and any attempted mortgage, charge, or encumbrance without such permission shall be null and void. Mortgages, etc.

20. All debts owed by a settler to Government in connection with this Act shall be a first charge upon his holding. Security.

21. The Land Board shall have power :—

- (a) To advise the Minister on all matters connected with the administration of this Act ;
 - (b) To make rules of procedure of the Board ;
 - (c) To institute and conduct, in the name of its Chairman, legal proceedings for the recovery of any moneys due, or the enforcement of its powers and authority, or of any obligations arising under this Act ;
- Powers of Board.

Act 44, 1904.

(d) To exercise such further and other powers as are provided for by this Act.

Subject to Minister.

22. The powers and authority of the Board shall be exercised subject to the general authority of the Minister, to whom the Board shall from time to time report, and whose sanction shall be necessary before any schemes shall be undertaken by the Board, or before any liability in respect thereof is incurred.

Surveys.

Any necessary surveys shall, unless the Minister otherwise directs, be carried out through the Department of the Surveyor-General upon application therefor being made by the Board through the Minister.

Death of Settler.

23. If a settler die, or be declared a lunatic, the conditions of his lease may be fulfilled by any member of his family, or by any other person approved by the proper officer. If no such person is forthcoming, the holding shall revert to the Crown, compensation being paid for the improvements, if any, to the representative of the settler.

Fences.

24. The Fencing Law, 1887, shall be in force in every settlement made under this Act, but subject to any modifications which may be made by the regulations for the purpose of adapting it to the requirements of such settlements.

Cost of Administration.

25. The cost of the administration of this Act, save so far as it may be defrayed from loans or other moneys received under this Act, shall be a charge upon the general revenue of the Colony.

Age of Applicants.

26. No person shall be allowed to select lands under this Act who shall not be at least twenty-one years of age, but lands may be selected on behalf of a person between the age of seventeen and twenty-one years, provided that provision is made for the proper occupation of lands on his behalf, and that security shall in such cases be required for the payments under any lease and for the fulfilment of its conditions.

Selection of Applicants.

27. The regulations under this Act may prescribe any further or other conditions in regard to the selection of applicants or any requirements to be complied with by intending applicants, and may provide for the forfeiture of any rights by and for imposing liabilities upon persons who may make application or take up allotments in contravention or in fraud of the regulations or of this Act.

Area.

28. No person already owning any rural land in Natal shall be allowed to acquire by lease or otherwise from the Crown any greater area of land than will, together with the land which he already owns, amount to the maximum area appointed by this Act for the classes of land so acquired. Grazing leases not being for a longer term than one year shall be excepted from this provision.

PART II.

Act 44, 1904.

Settlements on Private Lands.

29. If any available lands are considered suitable for settlement, the Minister shall submit a plan of the proposed settlement, together with an estimate of the cost, for approval by the Governor in Council. Available Lands.

30. Upon the approval of such plan by the Governor in Council, the Government shall have power to acquire the lands included therein by agreement with the owner. Acquirement of Lands.

31. The Board may, after any revision and final settlement of the plans of settlement, have the lands surveyed, sub-divided and laid off in allotments, and may determine the values to be placed upon them and fix the rents to be charged. Surveys, etc.

32. The Board shall, as soon as the lands are ready to be thrown open, advertise them for selection and shall receive and decide upon applications for allotments. Selection.

33. All lands to which this part of the Act applies shall be classed as under, and shall be divided into allotments as hereinafter provided for respective classes: Classification.

First class: Lands suitable for special farming.

Second class: Lands suitable for mixed farming.

Third class: Lands suitable for pasture or tree planting.

34. Lands of the third class may be reserved for afforestation, or they may be surveyed into blocks not exceeding 2,000 acres each, to be let on pastoral residential leases on the following terms:— Afforestation.

The leases shall be for a term of thirty-three years, with the right to cultivate.

The lessee shall be required to make improvements to the value of three shillings per acre during the first six years, and to maintain the improvements throughout the term of the lease.

The leases shall be terminable summarily for non-payment of the rent or for the non-fulfilment of their conditions.

35. At the expiry of the lease it may be renewed upon a revised rental, or the land may be resumed by the Government for tree planting, or the land may be classed under the first class or second class, in which case the outgoing tenant shall have the right of selecting an allotment in the class in which the land has been ranked; in either case the outgoing tenant shall receive compensation for his improvements. Renewal of Lease.

36. Lands of the second class shall be divided into agricultural allotments of from 250 to 500 acres, and shall be offered on Agricultural Allotments.

Act 44, 1904. lease for ninety-nine years, upon such terms and conditions as may be determined by the Governor in Council.

Beneficial occupation.

The allottees shall be required to reside on their allotments during nine months in each year, and to effect improvements in the first three years to the extent of five shillings per acre, and in the second three years to a further value of six shillings and eightpence per acre, and to maintain the improvements.

Breaches of conditions.

The lands shall be liable to be resumed by the Crown for non-payment of rent, or for the non-fulfilment of the conditions of occupation, and the lease of any land so resumed shall be sold by public auction, and the upset price shall be the amount due to the Government, with cost of proceedings added thereto; any balance above such amount shall be paid to the defaulting settler.

Irrigation areas.

37. Lands of the first class may be divided into blocks for irrigation areas, small dairy, poultry, or bee farms, or the like, the cultivation of fruit, tobacco, fibre plants, essential oil plants, vegetables, or any other agricultural products of high market value.

Extent of Blocks.

38. The allotments shall be approximately upon the following scale:

Blocks intended for irrigation shall be divided into lots not to exceed 60 acres each, save where the quality of the soil renders some extension advisable.

Blocks not intended for irrigation shall be divided into lots not exceeding 250 acres.

Such lands may in the discretion of the Government be grouped round centres set apart for factory or township purposes.

First class allotments.

39. Allotments of land of the first class shall be offered on lease upon terms as to rent and otherwise similar to those prescribed in respect to lands of the second class, save as is hereinafter specially provided.

In the case of lands planted and duly maintained as fruit farms, the Board may remit the rent for a period not exceeding three years.

Lessee to reside on land.

40. The lessees shall in every case be required to reside on the land, and to make improvements to the value of ten shillings per acre in the first three years, and to the value of a further ten shillings in the next three years.

Reserves.

41. The Government may in their discretion reserve temporarily so much of the land round the factory or township centres as may in their opinion be requisite for grazing purposes, but this shall not be made to give to anyone rights of commonage, and the land may at any time be offered by the Government in allotments for settlement.

PART III.

Act 44, 1904

Crown Lands.

42. Crown Lands coming within the category of first or second-class lands may be dealt with as provided in the case of private lands under Part II. of this Act. Crown Lands.

PART IV.

Provisions for Promoting the Success of Settlements.

43. The Board may authorise the use of tramways upon any roads between settlements established under this Act and the neighbouring railway stations, towns, or ports. Tramways.

44. The Board may, out of the funds placed at their disposal as hereinafter provided, make and maintain any local roads within a settlement, and may make, construct and maintain, or authorise the use of, tramways upon any such roads. Roads.

45. The Board shall similarly have power to make water furrows and to take and lead water for the purpose of a settlement from any stream or river passing through or near it, and to regulate the flow and distribution thereof; and for that purpose they shall have the right to catch and collect water and to construct dams, weirs, and other works, at any part of such stream in or above the settlement, to enclose or fence in water or water works, and to convey water to and over any land in the settlement by furrows, pipes, or otherwise, with all such other powers as may be necessary for securing a sufficient supply of water. Water Supply

46. Such powers shall not be exercised so as to deprive any person who is at the time of the formation of the settlement, or at the time of the commencement of any such works, a riparian owner of the water necessary for domestic use or for animal life, and, if the taking and using of any water shall injuriously affect any such riparian owner or any person who has up to the time of the taking of the water had a right to use the same, such person shall be entitled to compensation in terms of this Act. Riparian Owners

47. The Board may, upon the application of any settler within the first three years of his occupation of an allotment, advance him an amount not exceeding two-thirds of the assessed value of any improvements which may have been made by him on his land with the approval of the Board, and the amount of such advance shall be a charge upon the land, and shall be repaid, with interest at four and a half per cent., by instalments to be added to the instalments otherwise payable by him. Advances for Improvements

Act 44, 1904.
Advances for
Stock, etc.

48. The Board may, upon the application of a settler during the first year of his occupation, advance him an amount, not exceeding sixty pounds sterling, for the purchase of live stock, implements, seed, manure, or food: Such advance shall be a charge upon the land, and shall be repayable, with interest at four and a half per cent., in three equal annual instalments.

Fraud.

49. If any settler to whom an advance shall have been made as aforesaid shall apply the moneys to purposes other than those for which they were supplied, he shall be guilty of the crime of fraud.

Rates.

50. The Board shall have power, under regulations to be made as hereinbefore provided, to levy and get in such rates as may be necessary for the maintenance and repair of roads, tramways, furrows, or any other works carried out for the public benefit of the settlement and for all current charges and costs of the settlement.

Valuation.

51. Such regulations may also determine the basis and mode of valuation for the purposes of the rates, and may make such exemptions as may from time to time be considered proper in the public interest of lands held and used for public purposes, or for purposes of a church, public institute, school, or hospital, or for charitable institutions.

Water Rates.

52. The Board may also make such annual or special charges as may be fixed by the regulations for the supply and use of water for domestic, industrial, and irrigation purposes respectively.

Other rates.

53. The Board may also under such regulations fix and levy charges for the use of tramways and public conveniences other than roads.

Public Works.

54. The Governor in Council shall be authorised to advance such sums of money as may from time to time be required for public works and undertakings in connection with settlements made under this Act, and for the construction of which the authority of the Governor in Council may have been given.

All moneys so advanced shall be made a charge upon the lands of the settlement in such proportion as the Board shall determine, and the annual sums required for the repayment thereof, with interest, may be added to the rent payable in respect of the several allotments.

Sites for public purposes.

55. Suitable sites shall be set apart for schools and for public purposes of a settlement.

Factories.

56. The Board may, with the approval of the Governor in Council, assist agriculturalists in the establishment of factories or the like for the purpose of the manufacture of dairy or farming produce, such as butter, cheese, and tobacco, or the

packing or preserving of fruit, or any other factories for the purpose of the better utilization or marketing of raw produce. **Act 44, 1904,**

57. No scheme for any such undertaking shall be approved unless it is to be established and carried on by an association in the nature of what is known as a co-operative association, or until the constitution and articles of such association have been submitted to the Board and approved by them. **Co-operative Association.**

58. The regulations under this Act may prescribe the conditions necessary to be complied with before any association can receive the approval of the Board, whether in respect of its formation, membership or liabilities, the distribution of profits, or any other matters whatsoever relative to its constitution. **Conditions.**

59. The assistance to be given by the Government shall be by way of a contribution towards the capital outlay, and such contributions shall be made upon such terms as to payment, repayment and otherwise as to the Board shall seem proper. **Contribution by Government.**

60. The Governor in Council may at any time direct that the repayment of any part of such contribution shall be remitted. **Remittal of Contribution.**

61. All sums so contributed shall be a first charge preferred to all others whatsoever upon the lands leased to settlers who are members of the association, and also upon the factory and its buildings and machinery if situated upon land not belonging to the Crown. **Contribution to be a first charge.**

62. The Governor in Council may at any time, by proclamation offer bonuses for the export of approved agricultural products. **Bonus.**

Such bonuses shall be paid from moneys provided for the purpose by Parliament.

PART V.

Loans and Advances.

63. For the purpose of this Act the Governor may from time to time borrow moneys not exceeding in the whole the sum of One Million Pounds Sterling (£1,000,000), in accordance with the provisions of the General Loan Law, 1882. **Loans.**

64. The interest upon principal moneys so borrowed shall be payable at the office of the Agent-General in London, or at such other places as may be agreed. **Interest.**

65. Wherever in the General Loan Law of 1882 the Crown Agents of the Colonies are referred to, such reference shall for the purposes of this Act be deemed to be a reference to the Agent-General for the Colony of Natal. **Agent-General**

66. The Governor in Council may borrow from time to time, in anticipation of the raising of any portion of the loan authorised by this Act, any sum or sums not exceeding at any one time in **Governor may borrow in anticipation of Loan.**

Act 44, 1904. the whole the sum of Two Hundred and Fifty Thousand Pounds (£250,000), in such manner as may be most convenient for the public service, and shall repay the moneys so borrowed out of the principal moneys to be raised under the provisions of this Act.

The raising of any moneys under this section, or any part thereof, shall not *pro tanto* exhaust the borrowing powers conferred by this Act.

Weenen Settlement.

67. Any moneys which may have been expended out of the general revenue of this Colony under the provisions of the Land Acquisition Act, 1902, (a) or Act No. 12, 1900, entitled Act "To provide for the appropriation of certain of the lands forming portion of the Commonage of Weenen, and for their irrigation and sale in small allotments," shall be made a charge upon any loan raised under this Act, and may be repaid to the general revenue from the proceeds of any such loan.

Receipts.

68. All receipts in respect of rent upon leases of settlement lands or the repayment of advances or contributions made under the authority of this Act shall be paid to the general revenue of the Colony.

The Treasurer shall keep a separate account of all such receipts and likewise of all payments made out of general revenue in respect of interest and sinking fund upon moneys borrowed for the purposes of this Act, so that any excess of such receipts over such payments may, if further moneys are needed, for the purposes of any settlements formed under this Act, be applied by Parliament as advances for such purposes, to be charged on the lands of the settlement and repaid in like manner as any other moneys advanced under this Act.

(a) See tit. "LANDS IMPROVEMENT"

ALIENS.

[See "IMMIGRATION (RESTRICTED)."]

Naturalization of Aliens Act, 1905.

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Act No. 18, 1905.

"To make better provision with regard to the naturalization of Aliens."

[6th July, 1905.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. Law, No. 23, 1874, entitled Law "To repeal and re-enact with amendments Law No. 8, 1874, 'For further facilitating the Naturalization of Persons of European Birth or Descent'" is hereby repealed.

Repeal.

2. (1) An alien of European birth or descent who has been in the service of the Crown or who within such limited time before making the application hereinafter mentioned as may be prescribed by the Governor, either by general order or on any special occasion.

Who may apply for certificates of Naturalization

(a) Has resided in Natal for a term of not less than five years; or

(b) Who having resided in Natal 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

Act 18, 1905.

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 Natal, may apply for a certificate of naturalization in the form prescribed in the first Schedule of this Act.

Evidence of good character etc.

(2) The applicant shall produce in support of his application a certificate signed by some magistrate or justice of the peace to the effect that the applicant is known to the person so signing, and that to the best of such person's belief and knowledge the applicant is a person of good repute ; and shall give such further evidence of the completion by him of the said term of service or of residence and of his intention to reside or to serve under the Crown in Natal as the Governor may require ; and shall furnish proof that such notice of his intention to apply for a certificate of naturalization has been published in two issues of the *Government Gazette*.

Governor may grant or withhold certificate.

(3) The Governor, if satisfied with the evidence, shall take applicant's case into consideration and may with or without assigning any reason grant or withhold the certificate as he thinks most conducive to the public good, and no appeal shall lie from his decision.

(4) No such certificate shall have any effect until the applicant has made and subscribed to the declaration of allegiance in the form prescribed in the second Schedule hereto.

Applicant to subscribe to declaration of allegiance.

3. If the Governor thinks fit to grant such certificate of naturalization, he shall direct the applicant to make and subscribe the declaration of allegiance in the form prescribed in the second Schedule of this Act before some magistrate or justice of the peace ; and upon the certificate of such magistrate or justice of the peace that the applicant has made and subscribed before him the said declaration, he shall cause to be issued to the applicant a certificate of naturalization in the form prescribed by the Governor.

Certificate of Naturalization

Right conferred by certificate.

4. Every person to whom a certificate of naturalization under this Act is granted shall, except as otherwise provided by Law, be entitled to all the rights, powers and privileges, and be subject to all obligations to which a natural born British subject is entitled or subject in this Colony.

5. Any person who shall have been granted a certificate of naturalization in the United Kingdom under Section 7 of the Naturalization Act, 1870, of the Imperial Parliament, or who shall have been granted a certificate of readmission to British nationality under Section 8 of the said Act, and shall not subsequently have divested himself of his status as a British subject, shall, subject to any existing or future laws of this Colony, 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 this Act.

Act 18, 1905.
Naturalization in United Kingdom recognised in Natal.

6. (1) Every married woman shall in this Colony be deemed to be a subject of the State of which her husband is for the time being a subject.

Status of married women and children.

(2) Where the father or the mother (being a widow) shall be or become naturalized under this Act, any child of such father or mother who, while under age shall be or become resident with such father or mother in this Colony shall be deemed and taken to be naturalized under this Act.

7. A return of all persons to whom certificates of naturalization shall have been granted under this Act during the preceding half-year shall be published in the *Government Gazette* in the months of January and July, and such return shall show in respect of each person :—

Return of Naturalized aliens to be published in *Gazette*.

- (1) Name in full.
- (2) Birthplace.
- (3) Nationality prior to grant of certificate.
- (4) Occupation.
- (5) Period of service under the Crown or of residence in Natal.
- (6) Date of issue of certificate.

8. If any person shall knowingly make any false statement in any application made under this Act for the purpose of obtaining a certificate of naturalization, he shall upon conviction incur the same penalties as are by Law provided against persons convicted of perjury ; and in case a certificate of naturalization shall have been granted such certificate may be revoked by notice in the *Government Gazette*, and from the date of such notice shall be deemed to be void.

Offence and penalty.

9. Every person obtaining a certificate of naturalization under this Act shall pay for the same a fee of one pound to be denoted by revenue stamps to be affixed to such certificate and cancelled by the officer issuing it.

Fee for Naturalization certificate

Act 18, 1905.

Register of certificates to be kept.

10. The Colonial Secretary shall cause a register to be made and kept of all certificates of naturalization granted under this Act and shall upon the application, in writing, of any person, and upon payment of a fee of five shillings to be denoted by revenue stamps affixed to the application and cancelled by the officer receiving it permit a search to be made for the name of any person upon or supposed to be upon the register. 9

Proof of issue of certificate.

11. A certificate under the hand of the Colonial Secretary attesting the fact of the issue of a certificate of naturalization to any person whose name appears upon the said register shall be issued upon payment of a fee of five shillings to be denoted by revenue stamps affixed to the certificate and cancelled by the officer issuing it. Every such certificate shall be received as evidence of the facts therein stated.

Certificates admissible as evidence.

12. Every certificate granted under this Act shall be admissible in evidence without proof of the signature or seal attesting the same and shall be *prima facie* evidence of the person named therein being duly naturalized, and of the signature or seal attesting the same and of the official character of the persons appearing to have signed the same.

Short title.

13. This Act may be cited as the "Naturalization of Aliens Act, 1905."

SCHEDULE I.

Form of application for Certificate of Naturalization.
To the Colonial Secretary of Natal.

I, A.B., do hereby apply for a certificate of Naturalization in the Colony of Natal, 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 Natal, 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 Natal.....
11. Period or periods during which, and place and places in

Act 18, 1905.

which applicant has resided in Natal 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
 Natal?..... Declared at.....this.....day of....., 190...

Before me

Signature of Applicant.

Magistrate or Justice of the Peace.

SCHEDULE II.

Declaration of Allegiance.

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

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

Before me

Signature of Applicant.

Justice of the Peace.

ANGLERS.

[See "FISH."]

ANGORA RAMS, &c.

[See "EXPORTATION."]

ANIMALS.

[See "ANIMALS (DISEASES)"; "DOGS"; "EXPORTATION";
 "POUNDS"; "WILD BIRDS PROTECTION," &c.]

ANIMALS (DISEASES).

[See "DOGS."]

ACT No. 27, 1903 (To amend the Lungsickness Prevention Act, 1897)	..	1
ACT No. 28, 1903 (To make special provision in regard to the disease known as Rinderpest)	1
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Act No. 27, 1903.

"To amend the Lungsickness Prevention Act, 1897."

[13th September, 1903.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. Schedule C of the Lungsickness Prevention Act, 1897, is hereby repealed, and the following is enacted in lieu thereof:

SCHEDULE C.

	£	s.	d.
1. Calves under twelve months... .. .	5	0	0
2. Yearlings (oxen and heifers)... .. .	7	0	0
3. Two-year-olds (oxen and heifers)	9	0	0
4. Cows and heifers, three-year-olds and upwards ...	11	0	0
5. Oxen and Bulls	14	0	0

Act No. 28, 1903.

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Act No. 28, 1903.

“To make special provision in regard to the disease known as Rinderpest.”

[13th September, 1903.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. If any Veterinary Surgeon or Stock Inspector shall have reason to believe that any cattle are infected with the disease known as Rinderpest, or have been in contact with an animal so infected, or have otherwise been exposed to the risk of infection, he shall be empowered to direct that such cattle be isolated and properly inoculated.

Isolation and inoculation of infected or in-contact animals.

2. The owner or in his absence, the person having charge of any cattle shall be bound to carry out, at his own expense, such isolation and inoculation. If he shall fail to do so forthwith, the Veterinary Surgeon or Stock Inspector may have the isolation and inoculation carried out at the expense of the owner or, failing him, the person in charge.

At owner's expense.

3. If no Veterinary Surgeon or Stock Inspector be immediately available, the powers under this Act may be exercised by a Magistrate or by an Officer of Police not being below the rank of sergeant. Such Magistrate or Police Officer shall, however, take immediate steps to inform the District Veterinary Surgeon or Stock Inspector, who shall, as soon as possible, attend in person.

Exercise of authority by other officers.

4. The inoculation of any animal under this Act must, in the first instance, be effected with glycerinated bile or serum, and such inoculation must be to the satisfaction of an Officer of the Veterinary Department, and as often as may in the opinion of that Officer be necessary. Raw bile may be used for second and subsequent inoculations, if so desired, but ten days at least must elapse before the second inoculation.

Mode of inoculation.

5. The Governor in Council may from time to time make regulations for carrying out the objects of this Act.

Regulations.

6. Any person who shall contravene this Act, or a regulation thereunder, or who shall disobey or disregard any lawful order made by a person having authority, shall be liable, on conviction before a Magistrate, to a fine not exceeding Fifty Pounds Sterling, with the alternative of imprisonment, with or without hard labour, for any term not exceeding three months.

Offences and Penalties.

Act 28, 1903.

Order for payment of expenses.

7. The Magistrate, when giving judgment upon any such charge, may also make an order for the payment of any expenses of isolation or inoculation to which the accused person may have become liable as aforesaid.

Cattle sold at public auction to be warranted.

8. Whenever any cattle shall be sold at any public auction, or by the market-master at any public market, the auctioneer or market-master shall be bound to warrant, and shall be deemed to have warranted, all and every cattle to be free from Rinderpest, and if any such cattle shall die of, or exhibit symptoms of being infected with, such disease within eight days from date of sale, exclusive of such day, the auctioneer or market-master may be sued under such implied warranty for restitution of the price paid for such diseased cattle.

Liability of Auctioneer.

Liability of vendor for consequent damages.

9. If any person who shall purchase cattle at any public auction, or at any public market, shall prove that he has sustained damage from Rinderpest which may have broken out within eight days after the date of such purchase in the herd which was in his possession at the time he bought such cattle, and that any of the cattle so bought have shown symptoms of Rinderpest previous to any animal belonging to the said herd showing such symptoms, and if it shall be proved that the vendor was aware, or had sufficient opportunity to be aware, that any such cattle were so diseased, or had been running among cattle so diseased, at or within one month previous to the time of sale, then such vendor shall be liable to make good all loss or damage which the purchaser may have sustained by reason of such diseased cattle so purchased communicating such disease to cattle the property of the purchaser.

Warranty by vendor in private sales.

10. In all private sales of cattle the vendor shall be deemed to have warranted the same, and shall be in all respects liable under such implied warranty as if such cattle had been sold at a public sale, unless it shall have been otherwise stipulated and agreed in writing between the vendor and purchaser or their agents.

In suit for damages purchaser to take precautions taken.

11. It shall be incumbent on the purchaser, when suing for damages, to show that he has taken precaution to prevent the spread of Rinderpest amongst his herd as soon as he saw any symptoms that such disease had broken out amongst the said purchased cattle, and that he had with that view taken care, as far as possible, to keep the said purchased cattle separate from the said herd after the discovery of such symptoms as aforesaid, and the extent to which such precautions shall have been taken shall be considered by the Court when awarding damages.

Conditions to be observed for action to be sustained.

12. No action for restitution of the purchase price of any such purchased cattle which may have shown symptoms of Rinderpest, or for damages caused by such cattle communicating

Act 28, 1903.

the disease, shall be sustained under the provisions of this Act unless within seventy-two hours of the first symptoms of Rinderpest having been seen in the said cattle by the purchaser or any of his servants, the said cattle shall have been examined by two competent European witnesses, and unless notice that such symptoms have been seen has been given within seventy-two hours, as aforesaid, to the auctioneer or marketmaster or to the vendor. Such notice shall not be considered given unless it shall have been delivered verbally, or by telegram, registered letter, or by hand, at the usual residence or place of business of the person for whom it is intended; but if two competent European witnesses do not examine the said diseased cattle, as provided in this section, the said action shall be sustained if information that such cattle show symptoms of Rinderpest shall have been delivered to the nearest Magistrate, Government Veterinary Surgeon, or Stock Inspector, within seventy-two hours of such symptoms having been seen as aforesaid, who shall cause the said cattle to be inspected, and if any of the said officers, or either of the said witnesses shall have reasonable cause to believe the said cattle to be affected with Rinderpest, such person shall destroy one of the said cattle, and shall examine it to ascertain more certainly whether it was affected with Rinderpest; and if such person find the said cattle to be so affected he shall take the necessary steps to identify the said purchased cattle and all other cattle in the possession of the purchaser with which such purchased cattle may have been running, and the Court, when awarding damages, shall take into consideration all reasonable expenses which may have been incurred by the purchaser or in his behalf in connection with such purchased cattle.

13. Nothing in this Act shall be deemed to repeal any of the provisions of the Animals Diseases Act, 1894.

Animals
Diseases Act
not affected.

Act No. 32, 1903.

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Act No. 32, 1903.

“For preventing the spread of the disease known as Rhodesian Redwater.”

[21st September, 1903.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Interpretation

1. In this Act the expression “the Minister” means the Minister having charge of the Department of Agriculture. The expression “the disease” means the disease commonly known as Rhodesian Redwater, or East African Coast Fever.

Quarantine or
destruction,
&c., of infected
cattle.

2. The Minister shall have power to quarantine or destroy or dip any cattle which may be reported to him to be infected with the disease, or to have mixed or been in contact with infected cattle, or which there are reasonable grounds for believing to have been upon infected land (that is to say, land on which infected cattle have been kept or pastured or over

which they may have passed), or in any other way exposed to the risk of contracting the disease, or whenever he considers it necessary to do so in order to prevent the introduction or spread of the disease in the Colony.

Act 32, 1903.

3. [Repealed by Act No. 54, 1906.]

4. The Minister shall have power to define a zone of country along any border of the Colony, or around any infected area, or at any part of the Colony where it may be considered necessary, and to order that all such cattle or other animals as he may direct shall be removed from any such zone, and that no such cattle or other animals shall be allowed to enter or to be in such zone.

Minister may define a zone from which cattle shall be removed.

5. The Principal Veterinary Surgeon shall have power, subject to the approval of the Minister, which shall be obtained as soon afterwards as conveniently may be, to quarantine any cattle or other animals when he considers it necessary to do so, and to order any cattle or other animals to be dipped or dressed in such way as he may direct for destroying ticks, before allowing them to be removed from a quarantine or an infected area.

Power of Principal Veterinary Surgeon to quarantine and order dipping.

6. It shall be lawful for the Minister to order that all cattle in the Colony or in any portion thereof, and such other animals as he shall determine, shall be dipped or dressed at such time or times, and in such manner as he may prescribe for the purpose of destroying ticks,

Compulsory dipping or dressing of cattle.

7. The Minister shall have power to order the removal of cattle or other animals from one portion to another of an infected area, and to enforce the isolation of cattle or other animals on any specified portion of an infected area: Provided that no cattle shall be removed to or across a farm occupied by clean cattle.

Removal and isolation of cattle within an infected area.

8. The Minister shall have power to prohibit the removal from an infected area into any other part of the Colony of hay or fodder, or of any other thing which he considers likely to convey ticks or cause infection.

Prohibition of removal of hay, fodder, &c., out of an infected area.

9. [Repealed by Act No. 54, 1906.]

10. [Repealed by Act No. 54, 1906.]

11. The Governor in Council may, by notice in the *Government Gazette*, order that any method of inoculation or treatment described in such notice shall be adopted for the prevention of the disease. After the publication of such notice

Governor in Council may order adoption of particular method of inoculation.

(a) The Principal Veterinary Surgeon, or any District Veterinary Surgeon, may order any cattle to be inoculated or treated according to the method described in the notice, if he shall have reason to

Act 32, 1903.

believe that they are infected with the disease or have been exposed to the risk of infection, or are likely to spread the disease.

- (b) The Minister may, by notice in the *Government Gazette*, order that all cattle in any area, or part of the Colony, shall be inoculated or treated according to the prescribed method.

The Regulations hereinafter provided for may prescribe the mode and conditions of effecting the inoculation or treatment, and in all matters necessary to be observed in connection therewith.

Enforcement of orders.

12. Any order of the Minister or Principal Veterinary Surgeon may be enforced by an officer of the Veterinary Department, or by any person whom the Minister may appoint for the purpose.

On failure to obey orders such orders may be carried out at cost of owner.

13. The owner of any cattle or of any animal, or the person in whose possession or charge the same may be, shall promptly obey and carry out any order given for the isolation, quarantine, dipping, dressing or removal thereof, or any other lawful order made under this Act or the regulations. If he shall fail or neglect to do so, the District Veterinary Surgeon, or other officer, may carry out the order at the cost of the owner or such other person as aforesaid, who shall not thereby be relieved of any liability to punishment as hereinafter provided; and such cost shall be recoverable in the Court of the Magistrate of the Division in which the order shall have been so carried out or in the Supreme Court of the Colony.

Duration of quarantine or isolation.

14. Quarantine or isolation of cattle or other animals under this Act shall continue for such time as shall be prescribed by the Minister or Principal Veterinary Surgeon.

Construction of tanks for dipping and charges for use of same.

15. The Minister may construct tanks at public expense in any part of the Colony for dipping cattle or other animals, and may make such charges for dipping as he may see fit, and recover same from the owners of cattle or other animals dipped, or from the persons in charge of the same.

Regulations.

16. The Governor in Council may from time to time make regulations for carrying out the purposes of this Act. Such regulations may, amongst other things, prescribe the mode of quarantine or isolation of cattle or other animals and the means to be used in enforcing the same, and may define the authority and duties of guards and the like.

Publication thereof.

17. Any regulations made under this Act, and any order declaring an infected area, or defining a zone in terms of Section 4, or ordering compulsory dipping in terms of Section 6, shall be published in the *Government Gazette* as soon thereafter as possible.

18. If upon the examination of the organs of any animal destroyed under the provisions of Section 2 of this Act it shall be ascertained by the Principal Veterinary Surgeon, or any District Veterinary Surgeon, and certified by the Minister that such animal was not suffering from the disease, the owner shall be entitled to be paid from the public revenue the value of such animal immediately before death: Provided that the payment shall in no case exceed the rates set forth in the Schedule to this Act.

Act 32, 1903.

Compensation for destruction of animal which was not diseased.

19. In the event of any person suffering any loss or damage in consequence of the creation of a zone in terms of Section 4 hereof, he shall be entitled to be paid from the public revenue the amount thereof: Provided that in the event of any dispute arising between such persons and the Government as to the amount of such loss or damage the same [shall be referred to arbitration] (a).

Compensation for loss by creation of zone.

20. Any person who shall contravene this Act or any of the regulations, or who shall disobey any order made thereunder, or who shall neglect to carry out any duty imposed upon him by the Act or the regulations, shall be guilty of an offence, and shall be liable, upon conviction in the Court of a Magistrate, to a fine not exceeding One Hundred Pounds (£100), or to imprisonment, with or without hard labour, and with or without the option of a fine, for any term not exceeding six months.

Punishment for contraventions of Act or regulations.

21. Nothing in this Act shall be deemed to repeal or lessen the effect of any other Law or Act relating to diseases of animals.

Saving of other Laws or Acts relating to diseases of animals.

SCHEDULE.

[Repealed by Act No. 54, 1906.]

(a) Words in brackets are expunged and others substituted by Act No. 54, 1906, sec. 9, post.

Act No. 46, 1906.

“For preventing the spread of the Disease known as Epizootic Lymphangitis.”

[5th September, 1906.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Application of
Act 27, 1898.

1. The provisions of Act No. 27, 1898, entitled Act “To make better provision for preventing the spread of the Disease called Glanders” shall apply to the disease known as Epizootic Lymphangitis in like manner as to Glanders, except so far as they are varied by this Act, and subject to such exceptions the said Act is incorporated with this Act.

Addition to
sec. 11 of Act
27, 1898.

2. The following shall, for the purposes of this Act, be added to Section 11 of the Glanders Act, 1898 (*a*):

The Veterinary Surgeon or Stock inspector may, in place of ordering an in-contact animal to be isolated, place it in open quarantine, with permission to the owner to use the animal provided that it is stabled nowhere else than at the place directed, and that it shall not be sold or passed into the keeping of any person other than the owner or person then having charge of it. He may also at any time add any other conditions to his order, and may revoke the order and direct the animal to be isolated.

He may also permit treatment to be carried out, if he consider it advisable, in respect of any animal affected with the disease.

3. Section 12 of the Glanders Act of 1898, shall not be incorporated with this Act (*b*).

4. The following section shall, for the purposes of this Act, be substituted for Section 14 of the Glanders Act of 1898.

Substitution
for sec. 14 of
Act 27, 1898.

In the event of any animal being destroyed by the order of a Veterinary Surgeon as being infected with Epizootic Lymphangitis the owner may claim to have the carcass examined in the presence of a Veterinary surgeon and two or more disinterested persons. If the animal is found to have been infected with

(*a*) Probably Act No. 27, 1898, is intended. See tit. “HORSES,” Vol. 1.

(*b*) See **note** to sec. 2, *supra*.

Epizootic Lymphangitis no compensation shall be paid for its destruction. If the animal be proved not to have been so infected, then compensation shall be paid out of the general revenue, in no case exceeding Thirty Pounds (£30) Sterling. The value of the animal so destroyed for which it is intended to claim compensation, shall be decided by two disinterested persons, one of whom shall be appointed by the Veterinary Surgeon, and one by the owner.

Act 46, 1906.

Act No. 54, 1906.

“To amend Act No. 32, 1903, entitled ‘Act for preventing the spread of the disease known as Rhodesian Redwater.’”

[21st December, 1906.]

BE IT ENACTED by the King’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. This Act shall be read and construed with Act No. 32, 1903, as one Act. Principal Act.

The said Act No. 32, 1903, may be known as the East Coast Fever Act, 1903, and is in this Act referred to as the principal Act.

2. Sections 3, 9 and 10 of the principal Act are hereby repealed, without prejudice to anything ordered or done, or any regulation made, or any liability incurred thereunder. Repeals.

Any reference in this Act, or in the principal Act, to an infected area shall be understood as a reference to an area declared to be an infected area either under this Act or under Section 3 of the principal Act before the repeal thereof.

3. The Minister shall have power to declare any area to be an infected area within the meaning of this Act, and to prohibit the ingress or egress of cattle or other animals into or from an infected area, to order or prohibit the removal of cattle or other animals from one part to another of an infected area, to enforce the isolation of cattle or other animals on any specified part of an infected area, to fence off any area declared to be infected as aforesaid, and in all respects to control the movement of cattle and animals in, into, from, or over an infected area.

Power of
Minister to
declare in-
fected area.

Act 54, 1906.

The Minister may also make such orders as may be required for giving effect to the powers conferred by this section.

P.V.S. or
D.V.S. or
Stock Inspect-
or may make
orders.

The Principal Veterinary Surgeon or any District Veterinary Surgeon or Stock Inspector shall have power, pending the instructions of the Minister, to exercise the powers given by this section to the Minister. He shall promptly report any order so made to the Minister, who shall take such action thereon as he may think proper.

Regulations.

The Governor in Council may from time to time make regulations for carrying out the provisions of this Act. Such regulations shall amongst other things make provision for the formation of Committees in the different Magisterial divisions for the purpose of advising and assisting the Minister in all such matters arising out of this Act and Act No. 32, 1903, as may be submitted to them.

Branding of
cattle.

4. The Minister shall have power to order any cattle within an infected area to be branded in such manner and with such marks as he may direct.

Destruction or
quarantining of
cattle.

5. The Principal Veterinary Surgeon or any District Veterinary Surgeon may order the destruction or quarantining of any animal which shall have been brought into this Colony in contravention of this Act or of Law No. 13, 1866, or Act No. 38, 1894, or which may stray into, out of, or within an infected area, or which may be removed into, out of, or within an infected area without the written permission of a District Veterinary Surgeon, Stock Inspector, or other person authorised by the Principal Veterinary Surgeon for the purpose, and no person shall be entitled to compensation or payment in respect of any animal which may be so quarantined or destroyed.

Owner or
occupier of
land may
under cer-
ain cir-
cumstances
destroy stray-
ing cattle,
not exceed-
ing five
in number.

6. If any cattle not exceeding five in number shall stray into or cross any land within or immediately joining an infected area, the owner or occupier of the land may destroy such cattle unless they are travelling along a public road or right of way and the person in charge of such cattle is in possession of a permit to move the same granted by a District Veterinary Surgeon or Stock Inspector, or any person authorised by the Principal Veterinary Surgeon to give such permits, and the cattle are being moved in accordance with the permit; and he shall not be liable to pay compensation for any cattle so destroyed unless it shall appear to the Court that they were destroyed recklessly or wantonly, and without reasonable cause.

When number
exceeds five.

If the number of cattle so straying on to or crossing the land exceeds five the owner or occupier of the land may secure

them and report the case to the District Veterinary Surgeon or Stock Inspector, who may deal with them in manner as provided in Section 5, without any liability for compensation. **Act 54, 1906.**

In addition to any liability for damages or otherwise the owner and any other person responsible for the cattle which may have so strayed on to or crossed the land shall be liable to pay the expenses of and incidental to the detention and destruction or quarantining of the cattle. **Liability for expenses.**

Cattle so taken shall be paid for at the rates respectively set forth in the Schedule of this Act. **Rate of payment.**

7. No person shall, under pain of contravention of this Act, remove or in any way interfere with any fence erected or maintained for any purpose connected with the suppression of the disease, whether such fence be his own property or not, unless he shall have first obtained the written consent of the District Veterinary Surgeon or Stock Inspector. **Removal of fence.**

This section shall apply to any Magisterial Division which may be named in an order made by the Minister and published in the *Natal Government Gazette* declaring such Division to be brought within the operation of this section. **Application of Act.**

Any such order may be revoked, varied or renewed by the Minister from time to time.

8. The regulations under Section 16 of the principal Act may, amongst other things, prescribe the conditions under which any cattle or other animals may be moved from place to place at any time when it may be considered necessary to regulate their movement in order to prevent the spread of the disease. **Regulations.**

9. The words "shall be referred to arbitration" at the end of Section 19 of the principal Act are hereby expunged, and the following substituted therefor: "Shall be referred to a Board consisting of the District Veterinary Surgeon and two landowners, to be elected at a public meeting of landowners called by the Magistrate of the Division, who shall make a report thereon to the Minister whose decision shall be final." **Amendment of sec. 19 of principal Act.**

10. If any question shall arise whether any regulation made by the Governor in Council, or any order made or act done by the Minister is within the powers conferred by this Act or by the principal Act, or as to the lawfulness or authority of any act or order of the Principal Veterinary Surgeon or of an officer of his department, and if a certificate under the hand of the Minister is presented to any Court before which such question is brought, that in the opinion of the Government there is urgent need in the public interest for such regulation, act or order, the Court shall not have power to make any order restraining or interfering **Restrictions on judicial powers of interference.**

Act 54, 1906. with the enforcement of such regulation or order, or the carrying out of such act.

Any such question shall be deemed to be brought before a Court if any suit, appeal, or application is made in which the validity or lawfulness of a regulation, order, or act is either directly or indirectly brought into question.

Repeal.

11. The Schedule of the Principal Act is hereby repealed and the Schedule of this Act is substituted therefor, and Section 18 of the Principal Act shall be construed accordingly.

Schedule.

SCHEDULE.

	£	s.	d.
1. Calves under 12 months, up to	5	0	0
2. Yearlings (oxen and heifers), up to	7	0	0
3. Two-year-olds (oxen and heifers), up to	9	0	0
4. Cows and heifers, three-year-olds and upwards, up to	11	0	0
5. Oxen and Bulls, up to	14	0	0

APPEAL.

[See "COURTS (SUPREME)."]

APPRENTICES.

[See "DESTITUTE PERSONS."]

ARCHITECTS.

Act No. 10, 1902.

“To incorporate the Natal Institute of Architects.”

[23rd May, 1902.]

WHEREAS it is expedient to incorporate the Members of “The Natal Institute of Architects” to enable it the more effectually to carry out its objects and to hold, transfer, mortgage, and otherwise deal with immovable property in this Colony in its Corporate name:

BE IT THEREFORE ENACTED by the King’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. The Members of the Natal Institute of Architects shall be and they are hereby incorporated, and declared a body corporate with perpetual succession, save as hereinafter provided, and shall sue and be sued in its Corporate name.

Incorporation of Institute.

2. In the event of the subscriptions and fees actually paid by the members in any two successive years falling below the sum of Fifty Pounds (£50) sterling for each year, the said Institute shall, *ipso facto*, cease to be incorporated as from the first day of January in the following year.

In certain events Institute to cease to be incorporated.

3. The objects of the Institute are the promotion and advancement of Architectural Art and Practice, and its Allied Arts, Sciences, and Crafts, and the maintenance of the honour and the interests of the Profession of Architecture, and to do any other lawful acts or things which may be considered necessary to attain any or all of the above objects.

Objects of Institute.

4. The said Institute shall and may in its Corporate name acquire by purchase, taking on lease, exchange or otherwise, lands and buildings and all other property corporeal or incorporeal which the Institute may from time to time think proper to acquire for the attainment of all or any of the objects for which it is founded and which may lawfully be held by it, to sell, improve, manage, develop, mortgage, dispose of, or otherwise deal with, all or any part of such property of the Institute, and to maintain, alter, or add to any buildings erected upon such land or other property of the Institute: Provided always that all Acts, Deeds of Transfer, Leases, Mortgages, or other Bonds, and Deeds required to be registered by the Registrar of Deeds of this Colony (a) shall contain a reference to this Act, and shall

Powers of Institute.

(a) It is conceived that this proviso is to be understood as applying only to such acts, deeds, leases, etc., as are entered upon by the Institute of Architects.

Act 10, 1902. be passed or executed by the President or Vice President for the time being of the said Institute when duly authorised thereto by the Council of the said Institute under the Common Seal thereof, or by his Attorney duly authorised in that behalf.

Liability of Members.

5. Every member of the said Institute shall be liable in respect of debts incurred during his membership, for a sum of Ten Pounds (£10) sterling, and no more, and such sum shall be additional to the subscription payable by him in respect of the current year.

Rules and regulations.

6. The said Institute shall have power to make, rescind, and alter rules and regulations for the admission and expulsion of its members and for the management and control of its affairs, and until any new rules and regulations shall have been formed and adopted, the existing rules and regulations or Articles of Association of the Institute shall be and continue in force as if they were rules of the Institute hereby incorporated, and all members now holding office in the Institute shall continue and hold the same office under the Institute hereby incorporated.

Ownership of property how to be laid.

7. In any criminal prosecution, preliminary inquiry, or proceeding, or in any warrant, indictment, or other proceedings at law, it shall be sufficient if any goods or other things, which shall or may be set out in any such indictment, warrant, or other proceeding, shall be described and said to be the property of the Institute, and the Institute shall be described therein by its Corporate name.

ARMS, AMMUNITION, &c.

Firearms and Ammunition Act, 1905.

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Act No. 1, 1906.

“To amend and consolidate the Laws relating to Firearms and Ammunition.”

[17th January, 1906.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

PART I.

Preliminary.

1. This Act may be cited as the “Firearms and Ammunition Act, 1905.” Short title.

2. The Laws and Acts mentioned in Schedule No. 1 of this Act are hereby repealed: Provided that Repeals.

(a) This repeal shall not affect the validity of any order, warrant, license, certificate, ticket, or document

Act 1, 1906.

- made, granted, or issued, or of any appointment made under any Law hereby repealed.
- (b) The registration of any firearm under the repealed Laws shall be deemed to be a registration under this Act.
 - (c) All offences against and all forfeitures incurred under any of the repealed Laws may be dealt with and enforced under this Act.
 - (d) All proceedings commenced under any of the repealed Laws may be continued under this Act.
 - (e) All regulations made under any of the repealed Laws shall, save so far as they may be contrary to this Act or any regulations thereunder, remain in force as regulations made under this Act, until altered or repealed in terms of this Act.
 - (f) Nothing in this Act contained shall affect, abrogate, repeal, or interfere with the provisions of Laws Nos. 3 and 8, of 1888.

Interpretation

3. In this Act the following expressions shall, unless the contrary intention appears, have the meanings hereby respectively assigned to them, namely:—

“Firearm” includes every description of gun and pistol, whether the same be discharged by explosion or by any mechanical or other means, and the lock, stock, or barrel of any gun or pistol: Provided that air guns and spring guns which are not discharged by explosion, and the retail price in Natal of which is less than Thirty Shillings each, shall not be deemed to be firearms.

“Gunpowder” includes cordite and any other explosive substance used in the discharge of firearms.

“Ammunition” includes gunpowder, cartridges, and any article or substance used in the discharge of firearms and ordnance.

The decision whether any article comes within the foregoing definition of firearms or ammunition shall rest with the Controller of Arms.

“Native” means and includes all members of the aboriginal races or tribes of Africa, whether exempted or not from the operation of Native Law, and Griquas and Hottentots, and any person whose parents or either of them come under the

description of Natives, Griquas, or Hottentots, and the descendants of any such person. **Act 1, 1906.**

“ Asiatic ” means and includes all members of the aboriginal races of Asia, and their descendants, whether of pure or mixed race.

“ Minister ” means the Minister having charge of the department of the Controller of Arms.

“ Regulations ” mean the regulations made under this Act, or any regulations under the repealed Laws which may still be in force.

“ Prescribed ” means prescribed by this Act or the regulations.

“ Dealer ” means a dealer licensed under this Act or under the repealed Laws to sell firearms.

“ Collector of Customs ” includes any officer of the Department of Customs.

“ Inland State ” means any Colony or country in Africa south of the Equator, other than Natal.

4. Nothing in this Act contained shall apply to any firearms, or ammunition belonging to and in the possession of His Majesty's Imperial Government or the Government of this Colony. Saving of Govt. firearms, etc.

5. There shall be an officer for the administration of this Act, who shall be called the Controller of Arms, and who shall be appointed by the Governor in Council. Controller of Arms.

PART II.

Firearms.

6. No person shall, save as is expressly excepted, import or bring into this Colony any firearm, without having first obtained a license in the prescribed form from the Controller of Arms. License to be obtained for importation.

7. The Collector of Customs may refuse a warrant for the unloading of any firearms, and shall in no case allow the same when landed to be delivered out of the King's Warehouse until the importer shall produce his license to import such firearms, nor until the said Collector of Customs is satisfied, by examination, that the firearms sought to be landed or delivered correspond in number and description with the license under which they have been imported. Unloading of firearms, how regulated.

8. No license for the importation of firearms shall be transferable or capable of being assigned, nor shall the name of any person other than the person so licensed be substituted in any way or for any purpose, or in any entry in the Customs House, License to import, not transferable.

Act 1, 1906.

in lieu of the person obtaining such license, unless in each case the written authority of the Controller of Arms be first given for such transfer, assignment, or substitution.

Firearms for personal defence or for sport may be brought in under certain conditions.

9. Notwithstanding the foregoing provisions, any person arriving in this Colony by sea or overland may bring with him such firearms, not exceeding three in number, and being his *bona fide* property, as are usually carried for personal defence or for purposes of sport: Provided that no such firearms as aforesaid shall be allowed to leave the Customs House or Border Customs Office until the person bringing the same shall have made a declaration before the Collector or other proper officer of Customs, describing the firearms and stating the purpose for which the same are required.

Such firearms shall be registered as hereinafter provided, except in those cases where registration is dispensed with in terms of this Act.

Advice of importation to be given to Magistrate.

10. The Collector of Customs, on the payment of import duty on any firearms, shall advise the Magistrate of the Division in which the importer resides or carries on business, of the name of such importer of firearms, and the number and description of the same.

Dealer's license.

11. No person shall in this Colony deal with, or sell in the way of trade, or keep any firearms for sale without a dealer's license signed by the Controller of Arms in the prescribed form.

When granted.

12. The Controller of Arms may grant a dealer's license to any person established in business in this Colony whom he may deem a fit and trustworthy person for the purpose.

The applicant shall be first required to enter into a bond in the prescribed form, with one or more approved sureties.

A dealer shall not be exempt from the obligation to obtain a license for the importation of firearms.

Dealer's permit to keep firearms.

13. Every dealer shall, within three days after the delivery of any firearms to him or his authorised agent, make application in writing to the Magistrate of his Division, and the Magistrate shall thereupon grant to him a permit in the prescribed form to keep the firearms therein specified.

Any firearm received by a dealer for which the Magistrate's permit shall not have been granted under this Section shall be forfeited.

Transfer of firearms by one dealer to another.

14. A dealer may deliver to any other dealer the whole or any part of the firearms then actually in his possession provided that he shall, before delivery of the firearms, notify the Controller of Arms, and such firearms shall be removed in the prescribed manner.

15. Every dealer shall keep a book in the prescribed form, in which he shall enter an account of all firearms sold by him, the name and residence of the person to whom the same are sold, and the respective times at which the same were sold, and shall every month return a copy of such account to the Controller of Arms.

Act 1, 1906.

Dealer to keep a book.

16. Every dealer shall, before delivery of any firearm sold or dealt with by him, have the same registered by the Magistrate of his Division. For this purpose he shall produce every such firearm so sold, together with the permit relating thereto, to the Magistrate, and the purchaser shall also attend before the Magistrate.

Registration to be effected before delivery.

The Magistrate, if the purchaser appear to him to be a proper person to have firearms, shall thereupon register the firearm so sold in a book to be kept by him, in the form of Schedule No 2 of this Act, and shall stamp on every such firearm the number and letter of such registration, and shall thereupon issue to the purchaser a ticket of registration of each such firearm in the form of Schedule No. 3 of this Act.

He shall at the same time erase from the dealer's permit the entry relative to each such firearm, and shall note against it the date of registration, and the registration number given to the firearm.

A registration fee of sixpence (6d.) shall be paid to the Magistrate for every firearm registered under this Act.

Fee of 6d.

17. A dealer may remove firearms from any licensed place to any other licensed place upon obtaining a permit in the prescribed form from the Magistrate, and upon compliance with the conditions of the permit.

Removal of firearms, how effected.

The Magistrate granting such permit shall at once forward to the Magistrate of the place to which such firearms are to be removed, copy of the permit authorising such removal.

The person removing such firearms as aforesaid shall, within the time specified in the permit, and at the licensed place, produce the same to the Magistrate of the place to which he has removed the said firearms, who shall compare the said firearms produced with the copy of the permit forwarded as aforesaid.

18. It shall be lawful for the Controller of Arms, or any person appointed by him, at any and all reasonable times to enter into the premises of any dealer, and to require the production of all books, accounts, and documents relating to his business or to such firearms, and also the production of any firearms on hand; and also to require such dealer satisfactorily to account for all firearms which have come into his possession or have passed through his hands; and any person hindering,

Power to enter dealer's premises and examine books.

Act 1, 1906.

obstructing, or preventing such Controller or person in the performance of his duty, or failing to render him all reasonable assistance, or to give such satisfactory account as aforesaid, shall be guilty of a contravention of this Act, and any firearm which may be in his possession otherwise than under a proper permit, may at once be seized and shall be forfeited.

Withdrawal
cancellation or
suspension of
dealer's
license.

19. The Controller of Arms may by an Order in writing under his hand, whenever and so often as he shall deem expedient, and for such period of time as he may deem necessary, withdraw, cancel, or suspend any dealer's license granted under this Act, and the person to whom such license shall have been granted shall thereupon deliver up to the Controller of Arms all firearms not previously disposed of, and shall be duly compensated for the same unless the same shall be liable to forfeiture under the provisions of this Act.

Registration of
firearms im-
ported by
persons other
than dealers.

20. Every firearm lawfully imported at a seaport by any person other than a dealer, whether the same be imported under license from the Controller of Arms, or be brought by the owner, shall be registered and stamped by the Collector of Customs or other proper officer of Customs, in the manner hereinbefore prescribed, before leaving the place of entry, except in those cases where registration is dispensed with in terms of this Act.

Every firearm lawfully imported otherwise than at a seaport shall be taken with all convenient speed to the Magistrate of the Division to be registered and stamped by him, except in those cases where registration is dispensed with in terms of this Act.

A fee of sixpence shall be charged for every registration.

Seller, not
being dealer,
to register
before
delivery.

21. The seller of any firearm, not being a dealer, shall, before delivery, take such firearm together with the certificate of registration relating thereto to the Magistrate for registration in the name of such purchaser; and the Magistrate shall thereupon, if the purchaser appear to him to be a proper person to have firearms obliterate and retain such ticket and issue to the purchaser a certificate of transfer in the prescribed form and containing a reference to the number of the registration certificate.

The Magistrate shall record all transfers of firearms in such manner as shall be prescribed.

Persons other
than dealers
may not
possess un-
registered
firearm.

22. No person other than a dealer shall save in the cases excepted by this Act be permitted to own or have in his possession a firearm which is not registered and stamped under the provisions of this Act or the repealed Laws or (except in the case of firearms duly transferred to him before the passing of this Act) to own or have any firearm in his possession without

having the certificate of registration in his name or the certificate of transfer to him. Act 1, 1906.

If any such certificate be not produced the burden of proof of its having been granted and being still in force shall be with the person owning or having possession of the firearm :

Provided, however, that an armourer shall be permitted to receive duly registered firearms for the purpose of being stocked and an armourer, blacksmith or gunsmith shall be permitted to receive such firearms for the purpose of repairs without being required to have the same transferred to his name :

Provided also that a dealer or any person not residing in this Colony may, upon the written permit of any Magistrate, give to any person, for the purpose of being stocked or otherwise repaired, any firearms in such permit mentioned.

23. Any person being a resident of an Inland State, and resorting to this Colony for a temporary purpose not exceeding four months, may bring with him overland such firearms as are necessary or required for his personal use or defence without such arms being registered, provided that he shall not during his stay in this Colony sell or dispose of any such firearms except under the provisions of this Act.

Persons from inland states may bring firearms temporarily

If any such person shall remain in Natal for more than four months, he shall be required to have all such firearms as aforesaid registered under this Act.

24. When any person shall be found carrying or conveying, or in possession of more firearms than one, it shall be lawful for any Magistrate, Justice of the Peace, or constable, or any person empowered under warrant from the Magistrate or Justice of the Peace, to examine such firearms, and to require the person so found carrying firearms to tell his name in full and place of abode, and in case such person so found carrying firearms shall refuse to tell his name as aforesaid or place of abode, or such person found carrying firearms be not duly licensed, it shall be lawful for the Magistrate, Justice of the Peace, constable, or other person as aforesaid, and also for any person acting by his order and in his aid, to seize such firearms, and apprehend such offender, and bring him, as soon as conveniently may be, before a Magistrate's Court to be dealt with according to Law.

Enquiry may be made when person found with more than one firearm.

25. Every person having any firearms registered in his name shall, from time to time, when thereto required by a Magistrate, produce to any constable or other person named in such warrant the firearms which shall be so registered in his name, or, failing to produce such firearms, shall be compelled to account satisfactorily for their absence, in default of which he shall be deemed guilty of a contravention of this Act.

Production of Registered firearm may be required.

Act 1, 1906.

Conveyance of
firearms
through
Colony, how
regulated.

26. No person shall convey, by any means whatsoever, or cause to be conveyed, any firearms through this Colony or any part thereof, for sale or trade or barter, to any place or to any person beyond the boundaries of this Colony, except under a written permit from the Controller of Arms, and under such conditions as he may prescribe.

Forfeiture.

27. All firearms imported contrary to this Act or the Regulations, or of any Law or Regulation heretofore in force, all firearms required to be registered and stamped and not so registered and stamped, and all firearms owned or held contrary to this Act, shall be forfeited.

The burden of proof of compliance with this Act, or of any Law heretofore in force, shall be with the person charged, or in whose possession the firearm shall be found.

PART III.

*Ammunition.*Prohibition of
importation.

28. No ammunition shall be imported into Natal, whether by land or sea, except by the Imperial or Colonial Government, save as is otherwise specially provided in this Act.

Cartridges
may be im-
ported within
certain limits.

29. Notwithstanding the foregoing provisions, it shall be lawful for any person resident in Natal on obtaining permission from the Controller of Arms to import any cartridges requisite for any firearm registered in his name, and containing either gunpowder and ball or gunpowder and shot, but not exceeding one thousand (1,000) in any twelve months, of which not more than five hundred (500) may be ball ammunition.

Dealer may
import certain
quantity.

30. It shall also be lawful for a dealer to import not more than five hundred ball cartridges or one thousand shot cartridges for any firearm imported by him, and when selling such firearm he may sell to the registered purchaser, or any other person authorised by the Magistrate, the cartridges imported as aforesaid, or any portion thereof: Provided that the Magistrate shall not authorise any person who is not the purchaser of any such firearm to purchase from a dealer more ball ammunition than the quantity prescribed by Section 38 of this Act.

Empty cases,
caps.

31. Nothing in this Act shall apply to empty cartridge cases or percussion caps.

Permits to be
obtained.

32. The Collector of Customs shall allow any such cartridges as are by this Act allowed to be imported to pass the Customs on production of a permit from the Controller of Arms, which permit the Controller of Arms shall be required to give on being satisfied that the applicant is entitled to import such cartridges.

33. It shall be lawful for any person coming to Natal from an Inland State to bring with him for his own use, overland, into this Colony, a quantity of gunpowder not exceeding three pounds in weight.

Act 1, 1906.

Persons coming from inland states, regulations governing.

The Controller of Arms may grant a certificate exempting from prosecution a person by whom any ammunition may have been brought into the Colony overland without compliance with this Act, in any case where the person so bringing the same shall not be a resident in Natal, and shall make it appear to the satisfaction of the Controller of Arms that such ammunition was imported in ignorance of the law and for his own special use.

Ignorance of law may be pleaded.

34. No ammunition shall, save as is specially excepted by this Act, be exported from this Colony without the permission in writing of the Controller of Arms; and such exportation shall only be allowed under a bond entered into by the applicant, with approved sureties in the prescribed form, for the due delivery of the ammunition at the port for which permission has been obtained, and such bond shall remain in force till the Controller of Arms has been satisfied that the said ammunition has been duly delivered as aforesaid.

Export of ammunition.

35. The Governor may appoint depots or magazines throughout the Colony for the storing and sale of ammunition.

Depots and magazines.

All such depots or magazines already lawfully established shall be deemed to be established under this Act.

36. The Governor may appoint such persons as he may think proper to take charge of such depots or magazines as aforesaid, and to keep, sell, or otherwise dispose of, and deal in ammunition at such depots or magazines according to the provisions of this Act. Such persons are in this Act referred to as Ammunition Officers.

Ammunition officers.

37. Any Magistrate may, subject to the provisions of the next succeeding Section, grant to any person residing in his division whom he may think fit and proper, a permit or permits entitling him to obtain from an Ammunition Officer the quantity of ammunition in such permit mentioned: Provided that it shall be lawful for any Magistrate in his discretion, upon the production to him of a signed written request by any person residing in the Magisterial division for a permit to purchase and receive gunpowder, to grant any such permit as aforesaid to the person named in the request, being a person of European race, on behalf of the writer thereof.

Permits, to whom and by whom to be granted.

A Magistrate may, in his discretion, either wholly refuse any such permit as is mentioned in this Section, or grant the same for a less quantity than applied for.

Act 1, 1906.

All permits for ammunition shall be registered by the Magistrate.

Restrictions on permits.

38. Permits shall not be issued to any person within twelve months entitling him to obtain more than fifteen pounds (15 lbs.) weight of gunpowder suitable for use in firearms, and fifty pounds (50 lbs.) of blasting powder, except with the permission in writing of the Controller of Arms.

No person who is not a member of the active Militia or the Natal Police, or who is not a registered member of a Rifle Association, formed under lawful authority, the rules of which have been approved by the Government, shall without the consent in writing of the Controller of Arms be entitled to a permit to purchase in the Colony more than one hundred and fifty (150) rounds of ball ammunition within twelve months. Before issuing a permit for more than the said quantity of ammunition the Magistrate shall satisfy himself that the person applying for such permit is a member of one of the above named forces at the time of application for such permit; and the Magistrate may, if he sees fit, require a certificate from an officer of the active Militia or Natal Police, or the President of a Rifle Association, to the effect that the applicant for a permit is a member of one of the above named forces, and no such certificate shall be valid for longer than the calendar year in which it was granted.

Nothing in this Act shall restrict the issuing of ammunition free or at a reduced price to any member of any of the aforesaid forces by virtue of any Law or Regulation in force for the time being.

The aforesaid limit placed on the amount of ammunition to be issued shall not apply to "Morris Tube" and "Adaptor" ammunition.

Residents of inland states may obtain permits but this right may be suspended.

39. Any Magistrate may at his discretion grant to any person residing in an Inland State, who shall satisfy the Magistrate that he may be trusted not to make an improper use of ammunition, a permit enabling any such person to purchase from the Ammunition Officer any specified quantities of ammunition, but not exceeding fifteen pounds (15 lbs.) of gunpowder in any one year.

The Governor may by Proclamation from time to time suspend the power of granting permits under this Section, in such manner and for such time as he shall deem advisable.

Unauthorised supply of ammunition, punishment for.

40. No ammunition officer shall give, sell, or barter to any person any gunpowder, or loaded cartridges, except in strict accordance with a permit under this Act, and to the person named in such permit, and at such prices as the Controller of Arms shall from time to time determine.

Any person other than an ammunition officer or dealer who shall supply, sell, or barter any ammunition to any other person, and any person who shall buy or otherwise acquire any ammunition except from an Ammunition Officer or dealer under a proper permit, or any person not being an Ammunition Officer or a dealer, or a member of one of the forces specified in Section 38 of this Act, or a member of the Militia Reserve when called out for military service, who shall be found in possession of more than one hundred and fifty (150) rounds of ball ammunition without the authority in writing of the Controller of Arms, shall be liable, upon conviction, to imprisonment with or without hard labour, for any period not exceeding two years, and all ammunition in the possession of such person shall be forfeited. **Act 1, 1906.**

In the option of the Court a fine not exceeding Fifty Pounds (£50) Sterling may be imposed, in lieu of such imprisonment, and any such imprisonment may be imposed as an alternative to the payment of a fine.

41. Every ammunition officer shall on the first Monday of every month transmit to the Magistrate of his Division a return in writing containing the quantity of ammunition that has been sold, supported by the permits required by this Act, and showing the quantity still on hand. **Returns to be made by ammunition officer.**

42. Any person other than an Ammunition Officer, who shall have in his possession, or who shall store any greater quantity of gunpowder than fifteen pounds of powder suitable for firearms, or fifty pounds of blasting powder, or who shall convey or remove by any means whatever, without the permission in writing of the Controller of Arms, any gunpowder exceeding the aforesaid quantities respectively, and any person who shall, without the like permission, convey or remove any ammunition whatever for the purposes of trade, barter, or sale, shall be liable, upon conviction, to a fine not exceeding Fifty Pounds (£50) Sterling and to imprisonment, with or without hard labour, for any period not exceeding two years; and all such ammunition shall be forfeited. **Offences in respect of ammunition.**

43. All ammunition imported contrary to this Act or to any Law and Act heretofore in force, and all ammunition held otherwise than as permitted by this Act, shall be forfeited. **Forfeiture.**

PART IV.

Natives and Asiatics.

44. No Native or Asiatic shall be allowed to possess or have in his keeping any firearm or ammunition without a permit from the Secretary for Native Affairs, and such permit may be issued **Natives and Asiatics must have permit to keep**

Act 1, 1906. subject to such conditions as the Secretary for Native Affairs may determine. The Secretary for Native Affairs shall keep a register of all permits issued by him.

No firearm shall be registered in the name of, or transferred to, a Native or Asiatic except upon production of the aforesaid permit to the Magistrate, who shall record the particulars thereof in his register. In the case of ammunition, the Ammunition Officer shall similarly record the particulars of the permit before issuing any ammunition to a Native or Asiatic, and shall forthwith inform the Magistrate of the issue of the ammunition.

The Magistrate or Ammunition Officer shall return the permit to the Native or Asiatic, who shall retain it and shall at all times produce it for inspection when required by an officer of the department of the Controller of Arms, or by a Magistrate or his clerk or messenger, or by any justice, officer, or constable.

Permit may be
revoked.

Any such permit may at any time be revoked by order of the Secretary for Native Affairs, and upon receiving notice of such revocation the Native or Asiatic to whom it was issued shall return the same, together with the firearm or ammunition to which it relates to the Magistrate, provided that unless he shall have been convicted of a contravention of this Act, or of the regulations, the value of such firearm or ammunition at the time of revocation of the permit shall be paid to him by the Magistrate.

No permit shall be granted allowing any one Native or Asiatic to obtain more ammunition within any twelve months than contains half a pound ($\frac{1}{2}$ lb.) of black gunpowder, or fifty (50) rounds of ball ammunition.

Notwithstanding the foregoing provisions, it shall be lawful for a Magistrate, with the approval of the Secretary for Native Affairs, to grant any Native Chief living in his Division, and having a permit to keep a gun, as hereinbefore provided, one or more permits to purchase gunpowder in quantities not exceeding in all two pounds (2 lbs.) or ball ammunition not exceeding one hundred (100) rounds in any one year.

Servants may
carry firearms,
etc., for their
employers.

45. Any Native or Asiatic, being a servant in the *bona fide* employ of a dealer, may deliver to purchasers living within a radius of three miles, firearms and ammunition bought from his employer; and a Native or Asiatic, being a servant in the *bona fide* employ of a European, and carrying a written pass signed by him, shall be entitled to carry firearms and ammunition to or from his employer.

46. None of the provisions of this Act enabling any person to acquire or import arms or ammunition shall apply to Natives or Asiatics unless so specially stated, but every Native or Asiatic shall conform to this Act in all matters relative to such firearms or ammunition as he may by this Section be permitted to obtain.

Act 1, 1906.

Provisions of Act enabling person to acquire arms, etc., not to apply to natives and asiatics unless so stated.

If in reference to any alleged contravention of this Act, or of the regulations relative to Natives or Asiatics, it shall be a question whether the person alleged to be a Native or Asiatic is or is not so, such person shall be deemed to be a Native or Asiatic unless the contrary be shown.

47. Any person who shall give, lend, sell, or barter to any Native or Asiatic any firearm or ammunition except under the authority prescribed in this Act, and subject to the prescribed conditions, shall be liable to a fine not exceeding Fifty Pounds (£50) Sterling, and also to imprisonment at the discretion of the Court for any term not exceeding two years, and with or without hard labour.

Offence of dealing in firearms, etc., with native or asiatic.

48. All firearms or ammunition in the possession of a Native or Asiatic not authorised under this Act to keep the same may be seized and forfeited, whether any such firearm be registered or not, and the Native or Asiatic in whose possession as aforesaid any such firearm or ammunition may be found, shall be liable to a fine not exceeding Fifty Pounds (£50) Sterling, or at the discretion of the Court to imprisonment with or without hard labour, for any term not exceeding two years.

Forfeiture of firearms, etc., in unauthorised possession.

Natives already in possession of firearms under the authority of the Governor or a Magistrate, and Natives in the Province of Zululand in possession of firearms under permits signed by the Resident Commissioner, may continue to hold the same during the Governor's pleasure (a).

PART V.

Miscellaneous.

49. The Governor in Council may from time to time make regulations for all matters necessary or proper for the full and effectual administration of this Act, and for carrying out the purposes thereof.

Regulations.

The regulations may amongst other things prescribe the conditions of the landing, forwarding, conveyance, and sale of firearms and ammunition, and of its removal from one part of the Colony to another.

(a) See Section added to this Part by Act No. 22, 1906, post.

Act 1, 1906.

Master of ship to make report of firearms on board his vessel.

50. The Master of every ship arriving at any port of this Colony shall, within twenty-four hours after such arrival, in addition to any report required by the enactments relating to the Customs, make a special report in writing to the Collector of Customs or other officer of Customs of the number and description of firearms, cartridges, or other ammunition on board such vessel, specifying the firearms and gunpowder which form part of the cargo, and those firearms and gunpowder which belong to the ship as part of the equipment or furniture.

Master to account for firearms on departure.

51. Every Master of a vessel leaving any port of this Colony, shall previous to his departure give satisfactory proof to the Collector or other officer of Customs that the firearms and ammunition specified in his report as appertaining to his vessel's equipment or furniture are then on board the said vessel, or shall satisfactorily account for the same.

Penalty for failure to report.

52. If the Master of any ship shall fail or neglect to make the prescribed report on arrival, or he shall on departure fail to give satisfactory proof regarding and to account for all firearms or ammunition, as required by this Act, he shall be liable to a fine not exceeding Fifty Pounds (£50) Sterling, and the Collector of Customs may refuse clearance to or stop the ship till the same be paid.

Transshipment of firearms must be with consent of Collector.

53. No firearms shall, at any port or place within this Colony, be shipped or placed on board any boat, in order to be conveyed to any ship or vessel being in or near such port or place, in order to be carried to any other port or place whatsoever, without the permission in writing of the Collector of Customs first had and obtained, and the Collector of Customs shall, before granting such permission require the person applying for the same to enter with one or more sureties into a bond in the prescribed form.

Importation may be prohibited by proclamation.

54. The Governor may at any time, and from time to time by Proclamation prohibit the importation of any firearms, and such prohibition shall extend to all firearms, whether licensed to be imported or not; provided that the Controller of Arms may with the approval of the Minister allow any specified firearms to be excepted from such prohibition.

Powers to enter and search building, ship, etc., for contraband

55. The Controller of Arms, Collector of Customs, or any Magistrate or Justice of the Peace, or any officer of Customs or constable may enter and search any building, place, ship, boat, wagon, or other vehicle in or upon which there may be reason to suspect that any firearms or ammunition are deposited or kept, or conveyed contrary to the provisions of this Act, or of the regulations, and to stop and search any person, animal, or vehicle by whom or upon which there may be reason to suspect that any

firearms or ammunition are being conveyed contrary to this Act or the regulations. **Act 1, 1906.**

If upon any such search any firearms or ammunition shall be found deposited, kept, or being conveyed contrary to this Act or the regulations, they may be seized and forfeited. **Forfeiture of articles seized.**

56. The Collector of Customs may, upon the production of a permit signed by the Colonial Secretary of an Inland State, or of such other officer of such State as may be prescribed, and subject to the provisions of the Customs Acts and regulations, and the regulations under this Act, with regard to conveyance and otherwise, permit any arms or ammunition arriving by sea or otherwise, to be imported into Natal for transit to such Inland State, and to be conveyed through Natal to or towards their destination in such State: Provided that if he shall for any reason believe that such firearms or ammunition are intended to be supplied to Natives or to be used for any purposes of hostility to His Majesty's Government, or to the Government of any State with which His Majesty is at peace, he shall obtain the instructions of the Government before allowing such firearms or ammunition to be removed for conveyance. **Transit to Inland States.**

57. If any ammunition imported for transmission to an Inland State, and not being intended for the Government of such State, shall be disposed of or attempted to be disposed of, or otherwise dealt with, in this Colony, contrary to law, the same may be seized and forfeited. **Seizure and forfeiture.**

PART VI.

Offences and Punishments.

58. The disobedience or disregard of any obligation or prohibition imposed by this Act or by the regulations and the possession of any firearm or ammunition otherwise than as authorised by this Act, shall be deemed a contravention of this Act or of the regulations as the case may be. **Contraventions of Act or of regulations.**

59. Every person who shall forge any such permit as is mentioned in this Act, or who shall alter or falsify any permit issued by lawful authority, or who shall knowingly have or exhibit a forged, altered, or falsified permit, or who shall knowingly utter or pass off any forged, altered, or falsified pass, or who shall make any fraudulent use of any permit, whether forged or genuine, or who shall use any deception in order to obtain a permit for himself, or for any other person, or who shall obliterate or falsify the registration mark or number on any firearm, or affix any false mark or number to a firearm, or who shall knowingly transfer or deliver to anyone a firearm dealt with in **Forgery and falsity in regard to permit or pass.**

Act 1, 1906. any such way as aforesaid, shall be guilty of the crime of forgery or falsity as the case may be, and all firearms and ammunition to which such permit or forged, altered, or falsified permit relates, or in respect whereof any such offence has been committed, shall be forfeited unless the person in whose name the permit stands shall satisfy the Court that he was in no way a party to the crime committed.

Penalty for contraventions of Act or regulations where no special penalty provided.

60. All contraventions of this Act or of the regulations for which no special penalty is provided shall be punishable by fine not exceeding Fifty Pounds (£50) Sterling, and in default of payment imprisonment with or without hard labour for any period not exceeding six months, or by such imprisonment as aforesaid without the option of a fine.

Enforcement of forfeitures and penalties.

61. The enforcement of forfeitures and penalties imposed by this Act or the regulations may be by criminal prosecution, or by a civil suit at the instance of the Controller, but without prejudice to the powers of seizure and forfeiture competent to him as herein provided.

Controller may, with approval of Minister waive proceedings.

62. The Controller may with the approval of the Minister waive proceedings against any person liable to a penalty or forfeiture, or may demand, accept or sue for the whole or any part of such penalty or forfeiture.

Forfeiture of firearms, &c., the subject of any contravention.

63. All firearms and ammunition the subject of any contravention of this Act or of the Regulations shall be liable to forfeiture, and may be seized by any constable or by any officer of a Court, or of the Department of the Controller of Arms, or by any person having authority from a Magistrate, or from the Controller of Arms for the purpose.

Court may order forfeiture.

64. The Court by which any contravention of this Act or of the Regulations is tried may, upon conviction of the offender, order the arms or ammunition, the subject of such contravention, to be forfeited to the Crown, but it shall be in the discretion of the Court to waive such forfeiture if satisfied that the person to whom they belong was in no way a party to or involved in the offence.

Cognizance of offences.

65. All contraventions of this Act or of the Regulations shall be cognizable in the Courts of the Magistrates, who shall exercise in respect thereof powers of punishment to the extent of fine of Fifty Pounds (£50) Sterling, and of imprisonment, with or without hard labour, to the extent of six months, together with the power to adjudicate any forfeiture which may be authorised in respect of such contravention: Provided that the Attorney-General may, in any case, if he shall think fit, proceed by indictment in the usual manner before the Supreme Court or any Circuit Court; and in the latter case it shall not be necessary for

the prosecutor to show, nor shall it be material whether the contravention charged was committed within the jurisdiction of such Circuit Court, provided, however, that it appear that such contravention occurred within the Colony.

Act 1, 1906.

66. In any prosecution or proceeding under this Act or the Regulations, if any question shall arise as to whether any person is licensed, or as to whether any firearm is registered, or is registered in the name of any person, or duly transferred to him, or whether any person has given any prescribed notice or declaration, or as to the benefit of any permission or exemption, the burden of proof thereof shall be on the person against whom such prosecution or proceeding shall be had.

Onus of proof of certain questions.

67. The Court may, in any case, award any portion not exceeding one half of any fine imposed under this Act to any person or persons who shall have given such information as may have led to the conviction of the offender.

Award to informers.

68. In case any action or suit shall be commenced against any person or persons for any matters or things done or executed in pursuance of this Act, or in pursuance of any Regulations made under the authority of this Act, such action or suit shall be commenced within three calendar months after the alleged cause of action accrued, and the defendant or defendants in such action may plead the general issue and give the special matter in evidence on any trial to be had thereon, and prove that the same was done under the authority of this Act or of the Regulations.

Prescription of suit.

SCHEDULE No. 1.

Law No. 5, 1859.—“For preventing the sale of gunpowder and firearms to and prohibiting the possession of the same by Natives.”

Law No. 11, 1862.—“To make better provision relative to the Importation, Registration, and Sale of Firearms.”

Law No. 12, 1862.—“To amend the Law regulating the Dealing in Gunpowder.”

Law No. 12, 1863.—“To allow the importation of Cartridges and Percussion Caps in certain cases.”

Law No. 12, 1865.—“To amend Law No. 12, 1862, entitled Law ‘To amend the Law regulating the Dealing in Gunpowder.’”

Law No. 22, 1872.—“To amend Law No. 12, 1862, entitled Law ‘To amend the Law regulating the Dealing in Gunpowder.’”

Law No. 17, 1874.—“To amend the Laws relating to the Importation and Registration of Firearms.”

Act 1, 1906.

Law No. 6, 1876.—“To make provision for the appointment of a Controller of Arms and Ammunition, and to amend the Laws relating to Firearms and Ammunition accordingly.”

Law No. 12, 1880.—“To alter and amend Law No. 6, 1876, entitled Law ‘To make provision for the appointment of a Controller of Arms and Ammunition, and to amend the Laws relating to Firearms and Ammunition accordingly.’”

Law No. 42, 1887.—“To repeal the 16th Section of the Law No. 11, 1862, entitled Law ‘To make better provision relative to the Importation, Registration, and Sale of Firearms,’ and to make other provisions in lieu thereof.”

Law No. 40, 1888.—“To amend in certain respects the Laws relating to the Sale and Purchase of Gunpowder and Ammunition.”

Law No. 11, 1891.—“To provide for the importation of Gunpowder or Ammunition by or on behalf of the Governments of Inland States or persons residing therein.”

Act No. 18, 1898.—“To amend Law No. 11, 1862, entitled Law ‘To make better provision relative to the Importation, Registration, and Sale of Firearms.’”

Act No. 6, 1899.—“To assimilate the Law of the Province of Zululand relating to Firearms and Gunpowder with that of this part of Natal.”

Act No. 4, 1901.—“To amend Law No. 11, 1862, entitled Law ‘To make better provision relative to the Importation, Registration, and Sale of Firearms.’”

Act No. 15, 1901.—“To amend Law No. 5, 1859, entitled Law ‘For preventing the Sale of Gunpowder to, and prohibiting the possession of the same by Natives.’”

SCHEDULE NO. 2.

MAGISTRATE'S OFFICE.

Date.	Name.	Residence.	Trade or Calling.	Description of Firearms.	Letter.	No.

SCHEDULE NO. 3.

Act 1, 1906.

COLONY OF NATAL.

REGISTRATION TICKET.

This is to certify that, having taken into consideration the application of.....of....., I have this day granted, and do hereby grant him a license to keep the following firearms :—

Guns.	Pistols.	Other Firearms (describing same.)	Letter Stamped.	No Stamped.

Given at this day of 1
Magistrate for the Division of.....

Act No. 22, 1906.

“To amend the Firearms and Ammunition Act, 1905.”

[28th July, 1906.]

BE IT ENACTED by the King’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. The following section shall be added to Part IV. of the Firearms and Ammunition Act, 1905 :—

Any Native or Asiatic may be exempted from the operation of this part of the Act by a letter of exemption granted by the Governor.

Such exemption shall continue during the Governor’s pleasure, and may be revoked for any cause which he may consider sufficient.

ARREST (CIVIL).

[See “COURTS (MAGISTRATES).”]

ASSURANCE & INSURANCE COMPANIES.

Act No. 47, 1904.

“To provide for the lodging of security by Assurance and Insurance Companies not having their head office in Natal.”

[5th September, 1904.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Securities.

1. Every Company, whose head office shall not be situated within this Colony, which shall after the passing of this Act commence to carry on in this Colony the business of fire or life assurance, or insurance against any kind of risk, shall first be required to deposit with the Colonial Treasurer approved securities to his satisfaction to the value of Ten Thousand Pounds (£10,000) Sterling. Such security may consist in whole or in part of approved first mortgage bonds in favour of or ceded to the Government over immovable property in Natal: Provided that, in the case of Companies carrying on the business of marine or accident assurance only, the security to be deposited with the Colonial Treasurer shall be to the value of Five Thousand Pounds (£5,000) Sterling: And provided also that any Company carrying on the business of plate glass assurance only shall be exempt altogether from the operation of this Act.

Time for deposit.

2. Every such Company which at the time of the passing of this Act is carrying on such business as aforesaid shall be required to make a similar deposit on or before the first day of January, 1905.

Exchange of Securities.

3. A Company may, on giving due notice to the Colonial Treasurer, withdraw from his custody any securities so deposited on depositing with him other approved securities of an equal value, and any such substituted securities shall for all purposes be treated as securities originally deposited.

Value of Security to remain constant.

4. Every such Company as aforesaid shall keep the securities deposited with the Colonial Treasurer up to the full value of Ten Thousand Pounds (£10,000) Sterling, or Five Thousand Pounds (£5,000) Sterling, as the case may be; and upon his demand at any time or if any of such securities shall have been taken in execution or the like, the Company shall immediately lodge with the Colonial Treasurer such further securities as may in his opinion be necessary to bring up the securities to the value of

Ten Thousand Pounds (£10,000) Sterling, or Five Thousand Pounds (£5,000) Sterling, as the case may be. **Act 47, 1904.**

The income derived from all securities deposited under this Act may be received by the depositor. **Interest.**

5. No license shall be issued under the License and Stamp Acts to any Company as aforesaid, except upon production of a certificate under the hand of the officer of the Treasury Department appointed thereto, that the provisions of this Act in regard to security have been complied with by the company. **License.**

6. Except as may be otherwise provided by this Act, upon any Company ceasing or being about to cease to carry on business in Natal it shall be entitled to withdraw all the securities deposited under this Act: Provided that the Company shall have given twelve months' notice to that effect to the Colonial Treasurer: And provided further that a copy of such notice shall have been published three times in the *Natal Government Gazette* and in at least two daily newspapers published in Pietermaritzburg or Durban at least twelve months before such withdrawal shall be made. **Withdrawal of Securities.**

7. In the case of any policy issued by a Company about to cease carrying on business in the Colony, being still outstanding, the Colonial Treasurer shall retain such of the securities deposited under this Act as he may deem fit until such policy shall have been satisfied or shall have lapsed. **Retention of Securities.**

Act No. 43, 1906.

“To amend Act No. 47, 1904, entitled Act ‘To provide for the lodging of security by Assurance and Insurance Companies not having their head offices in Natal.’”

[5th September, 1906.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. From and after the first day of January, 1907, it shall not be lawful for any person to act as agent for any insurer or underwriter not domiciled in Natal, unless there shall have been first deposited with the Treasurer of Natal on behalf of each such insurer or underwriter securities as required by Act No. 47 of 1904; but this provision shall be subject to the same exceptions as are contained in the said Act. **No person to act as agent for insurer, &c., until securities deposited.**

2. (1) In this Act

The words “insurer” and “insurance” include “assurer” and “assurance.” **Meaning of terms.**

“Person” includes a partnership, company or corporation,

o Act 43, 1906.

(2) Notwithstanding the terms of the first section of this Act, when any number of insurers or underwriters belong to an institute or association the name of which is used in their insurance proposals or policies, the business of all insurers or underwriters acting under such name shall, for the purposes of this Act, be deemed to be the business of such institute or association, and only one deposit shall be necessary.

(3) A person shall be deemed to act as the agent for an insurer or underwriter who on behalf of such insurer or underwriter, does any act in reference to the receiving of proposals for insurance, or the issue of policies, or the collection of premiums; but there shall be excepted from the operation of this Act business relating solely to policies issued before the first day of January, 1907.

Incorporation
of Act 47, 1904.

3. Save so far as they may not be inconsistent with this Act, the provisions of Act No. 47, 1904, shall *mutatis mutandis* be incorporated with this Act.

Penalty for
acting in
contravention
of Act.

4. Any person who acts as an agent in contravention of this Act shall be liable to be sued by the Treasurer for the amount of the deposit required by this Act and for a penalty not exceeding One Hundred Pounds (£100) Sterling for each month in which he shall have so acted.

ATTORNEYS.

[See "COURTS (SUPREME)."]

AUCTIONEER.

[See "ANIMALS (DISEASES)"; "CONTRACTS."]

BOILERS.

1

BEER.

[See "REVENUE."]

BILLS OF EXCHANGE.

[See "CONTRACTS"; "HOLIDAYS."]

BIRDS.

[See "WILD BIRDS PROTECTION."]

BIRTHS.

[See "REGISTRATION (BIRTHS &c)."]

BOILERS.

Act No. 28, 1901.

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Act No. 28, 1901.

"For the Inspection and Regulation of Boilers."

[19th August, 1901.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. This Act shall take effect on the first day of January, 1902. Commence-
ment.

2. Every person keeping and using a boiler for generating steam for manufacturing or other purposes, shall take out an License for
steam boilers.

Act 28, 1901. annual license of Ten Shillings Sterling, subject to the provisions of the License and Stamp Act, 1898, for each boiler so kept and used.

Inspection before issue of license.

3. Before any such license shall be granted, the boiler in respect of which a license is applied for shall be inspected by the Government Inspector hereinafter referred to, and no such license shall be issued unless the application for the same be accompanied by a certificate, signed by the Inspector, to the effect that the boiler sought to be licensed has been examined by him, and is fit and proper to be licensed.

Duration of inspection certificate.

4. The certificate to be granted to the owner of any boiler shall remain in force for any period the Inspector shall think fit not exceeding one year, which period shall be stated on the certificate.

Inspectors of boilers.

5. The Governor in Council shall from time to time appoint an Inspector or Inspectors of boilers for the purposes of this Act. The salary and allowances of every Inspector shall be paid from the general revenue.

Powers and duties of Inspectors.

6. An Inspector of boilers appointed as aforesaid shall have the following powers and duties:—

- (a) He may at any time examine and test the external fittings of a steam boiler, whether the same is in use, or before it is brought into use.
- (b) He shall at least once in every twelve months, or oftener, if necessary, inspect, examine, and, if necessary, test every steam boiler within the district under his supervision, and in the case of steam boilers used in connection with the manufacture of sugar, he shall make the inspection or test between the first of March and the 31st of May in each year.
- (c) He shall in all cases furnish to the owner of the boiler so inspected or tested a report of the result of his inspection or test.
- (d) If it shall appear to him that any defect of a dangerous nature, or likely to become dangerous, exists in any such boiler or fittings, he may interdict the use of the same until every such defect has been remedied to his satisfaction.
- (e) He may, if for sufficient reasons he shall think it necessary, suspend or cancel any license issued under this Act.

Such suspension or cancellation shall be subject to an appeal to the Magistrate.

7. The Inspector shall give to the proprietor or his known agent, residing at or near the place or works at which, or the estate on which, any such steam boiler shall be used or intended to be used, not less than seven days' notice of his intention to test such steam boiler. **Act 28, 1901.**
Notice of intention to test boiler.

8. No person under the age of eighteen years shall have charge of, or be allowed to exercise sole control over, any boiler. If the owner of any boiler shall knowingly permit or suffer a breach of this provision, he shall be liable to a penalty not exceeding Twenty Pounds.
Requisite as to age of person in charge of boiler.

9. The Governor in Council may from time to time frame rules for carrying out the objects of this Act : Rules.

Fixing the number of pressure gauges required to be fitted to a steam boiler.

Determining the number, situation, nature, and construction of safety valves required to be fitted to a steam boiler.

Regarding fittings and appliances of steam boilers generally.

For determining the rates of travelling expenses payable to Inspectors appointed under this Act.

Regulating the time and manner of tests made under this Act.

10. The following acts shall be deemed to be contraventions of this Act ;— Contraventions.

(a) Refusing to allow an Inspector to enter at any time upon the premises, or to have free access to all steam boilers, and the works and premises where such boilers are situated, or failing to render him any reasonable assistance.

(b) Using any steam boiler without having the necessary license, or continuing to use a steam boiler during the suspension or after the cancellation of the license therefor, or during the continuance of an interdict by an Inspector.

(c) The wilful neglect or disobedience of any requirements of this Act.

11. The certificate granted to the owner of any boiler shall be exhibited in some conspicuous place, to be determined by the Inspector, where it can be seen by all persons working at or with any such boiler, and any person neglecting so to exhibit such certificate shall be liable to a penalty not exceeding Twenty Pounds.
Certificates to be conspicuously exhibited

12. All contraventions of this Act or of the Rules shall be cognisable in the Courts of Magistrates, who may, in respect of Prosecution of contraventions

Act 28, 1901. any such contravention, impose a fine not exceeding Fifty Pounds Sterling.

Exemption of
boilers used in
public depart-
ments.

13. This Act shall not apply to boilers used in any Department of the public service, including the engines of the Railway Department, and the boilers of steam tugs, dredgers and other craft belonging to the Harbour Department.

It shall, however, be necessary for the Inspector having charge of the District of Durban to satisfy himself that all the Railway boilers, and those of the Harbour Department tugs, dredgers and other craft, are efficiently inspected and tested, and to issue his certificate to that effect.

BOROUGHS.

[See "MUNICIPAL CORPORATIONS."]

BRANDS.

[See "OSTRICHES."]

BROTHERS.

[See "CRIMINAL LAW."]

BUBONIC PLAGUE.

[See "PUBLIC HEALTH."]

BURIAL GROUNDS.

Act No. 19, 1901.

“To provide for the Expropriation of Land for the purpose of Burial Grounds for certain of the Imperial and Colonial Forces, and certain of the Forces belonging to the late Orange Free State and South African Republic, who have died either from wounds or otherwise during the recent campaign in South Africa.”

[19th August, 1901.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. It shall be lawful for the Governor for the purpose of setting aside, enclosing, and maintaining as a burial ground any land in which officers, non-commissioned officers or men whether belonging to the Imperial or Colonial Forces, or to the forces of the late Orange Free State and South African Republic, who have died from the effect of wounds or otherwise during the recent campaign in South Africa, have been buried, to take, use, and expropriate so much of such land as may be necessary for the said purpose: Provided that hereafter no such ground shall be used for the burial of any body without the consent of the Governor, and of the Town Council or Local Board of any town in which such burial ground may be situated.

Expropriation
of land for
burial grounds

2. For the purpose of access to any land so expropriated, in case there shall exist no public access, it shall be lawful for any person acting on behalf of the Government to pass over any intervening land, with any materials, vehicles or animals, but so as to avoid injury to the owner of the land, as far as possible, and for any person to use the same route for the purpose only of visiting the burial ground on such land.

Access to
burial grounds.

3. There shall be paid for the expropriation of such land and such rights of way such compensation as may be agreed to between the Governor and the respective owners, and in the absence of any such agreement, the amount of such compensation shall be determined in manner provided by the “Lands Clauses Consolidation Law, 1872.”

Compensation
for expropriation.

4. The owner of any land acquired under this Act shall, if called upon to do so, duly transfer the same to the Colonial Government, and for that purpose shall execute all such documents as may be necessary. All costs of survey and transfer shall be borne by the Government.

Transfer of
land to
Government.

Act 19, 1901.

Penalties for
contravening
regulations.

5. Any person who shall contravene any regulation which may be made by the Governor for the maintenance and preservation of any land taken under this Act, and of the graves and other things therein, and any person who shall wantonly or wilfully destroy, or do, or cause to be done, any damage to any grave, monument, vault, tombstone, building, erection, railing, fence, tree, shrub, or plant, in or belonging to any land so enclosed as aforesaid, shall, upon conviction before a Magistrate, be liable for every such offence to a penalty not exceeding Twenty Pounds Sterling, and in default of payment to imprisonment, with or without hard labour, for any period not exceeding three months, or to both such penalty and such imprisonment.

CATTLE.

[See “ ANIMALS (DISEASES) ” ; “ CRIMINAL LAW ” : “ POUNDS ” ;
“ PUBLIC HEALTH. ”]

CATTLE STEALING.

[See “ CRIMINAL LAW. ”]

CENSUS.

Act No. 8, 1900.

“ To make further provision for taking a Census of the Colony. ”
[29th June, 1900.]

BE IT ENACTED by the Queen’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. The Governor may at any time by Proclamation order a census to be taken of the population of the Colony, and the provisions of Law No. 34, 1880, entitled Law “ To provide for taking a Census of the Population of the Colony of Natal, ” shall *mutatis mutandis* apply to any census so ordered.

Governor may order census of population to be taken.

2. Any census so ordered may, in addition to providing for a census of the population, also direct a census to be taken of the lands, live stock, and produce of the Colony, or of any one or more of such particulars.

Census may include lands, live stock, and produce.

3. The Governor may by the aforesaid Proclamation, or by any rule or order made in reference thereto, issue instructions regarding the particulars required and the mode in which the census of the Native population of the Colony shall be taken.

Particulars required and mode in which census of Native population to be taken.

CHEMISTS.

[See “ SHOP HOURS. ”]

CHILDREN (PROTECTION OF).

[See “ DESTITUTE PERSONS. ”]

CIVIL SERVICE.

See ["PUBLIC EMPLOYEES."]

Act No. 43, 1901.

"To amend the Civil Service Act of 1894."

[26th August, 1901.]

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Qualifications
for appoint-
ment as
Magistrate.

1. It shall not be lawful permanently to appoint to any office of Magistrate or Assistant Magistrate, or to appoint as Acting Magistrate for any period longer than three months, any person who, on the 1st day of July, 1901, shall not have served five years or upwards in the Civil Service of the Colony, unless he shall have passed such qualifying examination as may be prescribed by regulations to be framed under the provisions of Section 35 of the principal Act, or shall be an Advocate or Solicitor of the Supreme Court, or entitled to be admitted as such.

Appointments
first made on
probation to
date from
probationary
appointment.

2. The following proviso shall be added to Section 15 of the principal Act:—

Provided that every officer admitted to the Permanent Civil Establishment who shall have received his first appointment upon probation, whether before or after the passing of this Act, shall be deemed to have been appointed upon the Permanent Establishment of the Civil Service for all purposes from the date of his appointment as a probationer.

Contribution
to superannua-
tion fund from
salary of
probationer.

3. The monthly deduction provided for in Section 31 of the principal Act shall be made from the salary of every probationer appointed under the provisions of Section 15 of the said Act, but should his appointment not be confirmed, the officer shall be entitled to receive a refund of the whole sum of the deductions so made from his salary.

Admission of
certain Super-
intendents of
Roads and
Works to Civil
Service.

4. It shall be competent for the Governor in Council, upon the recommendation of the Ministerial Head of the Department, to admit to the benefits of the principal Act, Superintendents of Roads and Works employed under the Public Works Department who received their appointments prior to the Seventeenth day of July, 1894, and whom it may be desirable, upon the completion of twenty years' service, to place upon the Permanent Establishment of the Civil Service. Such officers shall not be required to

pay the contribution towards superannuation contemplated by Section 30 of the principal Act in respect of service prior to their admission to the fixed establishment, but the contribution under Section 31 of the principal Act shall, on their admission to the Civil Service, be payable from the date of completion of the twenty years' service herein referred to. **Act 43, 1901.**

5. It shall be lawful for the Governor in Council to frame rules for the calculation of pensions which may be granted on their retirement to officers who may with the approval of the Government concerned, have served partly in the Permanent Civil Service of this Colony, and partly in the Imperial Service or in that of any British Colony or Possession, and for the charging of equitable shares of such pensions to the revenues of this Colony. Pensions of officers who have served partly in Natal and partly in Imperial or other Colonial service.

6. This Act shall be read and construed as part of the principal Act. Joint construction of Acts.

Act No. 4, 1905.

“To amend the Act relating to the Civil Service.”

[22nd May, 1905.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. Section 27 of the Civil Service Act, 1894, is hereby amended by expunging the reference therein to the Governor, and the Minister shall be empowered, upon the recommendation of the head of department to which an officer belongs, to grant leave of absence in the cases referred to in the said section.

COASTING VESSELS,

[See “SHIPPING.”]

COLLIERIES.

[See “MINES AND COLLIERIES.”]

COMMISSIONERS FOR OATHS.

[See “OATHS.”]

COMMONAGES.

COMMONAGES.

Commonages Act, 1904.

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Act No. 35, 1904.

“To make provision with regard to the lands reserved as Commonages in connection with certain townships.”

[13th August, 1904.]

WHEREAS certain lands of the Crown have been reserved by Government as commonage or town lands in connection with sites intended for townships :

AND WHEREAS the extent of such commonage in some cases greatly exceeds the requirements of the holders of erven in the townships, and it is expedient to provide for the resumption and disposal by Government of a part thereof and for the proper control and utilization of the remainder :

BE IT THEREFORE enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

- Title. 1. This Act may be known as the “Commonages Act, 1904.”
- Applicable to certain Lands. 2. This Act shall apply to the Town Lands of Weston and Fort Nottingham as specified in the Schedule of this Act.
- Inclusion of Crown Lands. The Governor in Council may by proclamation extend the operation of this Act to any township and the commonage thereof reserved out of the Crown Lands in manner aforesaid, which may not have been brought under the operation of any law for the municipal government of townships or boroughs.
- Definition. The town lands of Weston and Fort Nottingham, and the lands so reserved as aforesaid are in this Act referred to as commonages.
- Resumption of Commonages. 3. The Governor in Council may resume on behalf of the Crown any commonage to which this Act applies: Provided

however, that no lands shall be resumed by the Government in the case of any Township or Commonage to which this Act may be extended, except in the case of Weston and Fort Nottingham, until a resolution in that behalf shall have been passed by the Legislative Council and Legislative Assembly. **Act 35, 1904.**

There shall, however, be excluded from such resumption so much of the commonage as the Governor in Council may deem sufficient for the reasonable requirements of the township, not being less in any case than one thousand (1,000) acres.

4. Before any commonage is resumed the Surveyor-General shall cause the land which is to be retained as town lands to be selected in a convenient position for the purposes of the township, and shall have it surveyed and beaconed off. **Town Lands to be surveyed**

5. One month's notice shall thereafter be given in the *Natal Government Gazette* and in two newspapers published in the Colony, fixing a date for the resumption of the commonage, and describing the part which will be retained as town lands. **Publication of Notice.**

6. As soon as may be after the expiry of such notice the order of the Governor in Council for the resumption of the commonage shall be published in the *Natal Government Gazette*, and thereupon the commonage shall, save as to the excepted part, become the absolute property of the Crown, free from all rights of pasture or any other private rights whatsoever, and shall be at the disposal of the Government in the same manner as ordinary Crown lands. **Publication of Order.**

7. This Act shall not affect any lands which shall have been transferred from the Crown, or the tenure of any lands which have been leased, or the exclusive use of which has been specially granted to any person or society, so long as such lease or use shall subsist in terms of the grant thereof, but upon the expiry of such lease or right of user the land shall, in so far as it may lie within the limits of the unresumed commonage, form a part of such commonage, and in so far as it may lie within the limits of the resumed lands, it shall become the property of the Crown in the same manner as the resumed lands: Provided that an outgoing lessee shall be allowed at any time within six months after the expiry of his lease to remove any buildings or machinery erected by him. **Exclusion of certain lands.**

8. No person shall be entitled to compensation by Government of any kind in consequence of the resumption of a commonage under this Act. **Compensation**

9. Where any lands resumed as aforesaid on which buildings or improvements have been made by any lessee shall be sold or leased by Government to any person other than such lessee or his successors or assigns, the said buildings and improvements **Valuation of Buildings and Improvements**

Act 35, 1904. shall be valued by a Valuator, to be appointed by Government, and the purchaser or lessee from the Government shall, without delay, pay the amount of such valuation to the Surveyor-General, who shall pay same to the lessee who erected such buildings or made such improvements, or his successors or assigns. Machinery shall not be included in such valuation.

Town Lands—
open to public
use.

10. That part of a commonage which shall have been excluded as aforesaid from the resumption by Government shall, subject to the provisions of this Act, be dedicated to the public use and enjoyment of persons resident upon the erven of the township to which such land is attached, as commonage or town lands. Such lands are hereinafter referred to as town lands.

Regulations.

11. The Governor in Council may, from time to time, make regulations for all matters connected with the management and use of the town lands to which this Act applies, and in particular for the following purposes:—

- (a) The regulation of grazing, and the fees to be paid by any persons depasturing stock in excess of any number which may be prescribed.
- (b) The utilization of any part of the town lands for brickmaking, quarrying stone, or for other purposes for the public advantage of the township.
- (c) The prohibition of any injurious or improper use of the town lands.
- (d) The preservation of forest, bush or water, the use of water for irrigation or otherwise, and of dead wood for domestic purposes.
- (e) The regulation of outspan, and also for the taking of materials for the construction of public works within the village, such as roads, bridges, buildings and the like.

Contraven-
tions.

12. Any person contravening a regulation made under this Act shall be liable to a fine not exceeding Ten Pounds (£10) Sterling.

Sale or Lease
of Town Lands

13. The Governor may sell as erven or lease as small allotments any part of the town lands upon such terms as may appear suitable, having regard to the interests of the township.

Application of
moneys.

14. All moneys received as purchase money of town lands or for rents or fees from the town lands shall be paid to an account to be kept by the Surveyor-General for each township to which this Act applies, and such funds shall be drawn upon and applied for the purpose of the respective townships in such manner as may be appointed by the regulations.

Law 3, 1870, to
cease on re-
sumption.

15. Law No. 3, 1870 (a), shall cease to apply to the town

(a) See under tit. "TOWNSHIPS," in Vol. 3,

lands of Weston and Fort Nottingham, and to any other town lands hereafter brought under this Act, so soon as the powers of resumption conferred by Section 3 shall have been exercised. Any moneys which may have accumulated under the said Law for any such township shall be paid to the fund created under this Act.

Act 35, 1904.

16. No claim or liability whatsoever shall rest upon the public revenue of the Colony for any matter arising out of the control or management of town lands by Government.

Management of Town Lands

17. The Governor may, without payment of compensation, appropriate any unalienated part of the town lands for the purpose of cemeteries, pounds, schools or other institutions, or for other public purposes for the benefit of the township and the surrounding district.

Appropriation for public purposes.

18. This Act shall not apply to Commonages which may be vested in Trustees.

Exemption of Commonages vested in Trustees.

SCHEDULE.

Schedule.

Township.	Approximate area of Commonage.	Boundaries of Commonage.
Weston	6,800 acres.	Bounded Eastwards by Hopeful, Mount Victoria, and the Mooi River, Southwards by Robin Hood's Well, Westwards by Greenfield, Grantleigh and the Mooi River, Northwards by Langewacht and The Heights.
Fort Nottingham ...	13,000 acres.	Bounded on the North-east by Defence, Vaalkop, and J. Howard's Grant, Eastwards by J. Howard's Grant and Leeuwbosch, Southwestwards by Geelhoutboom and Vlakplaats, Southwards by Geelhoutboom, Westwards by Land granted to the Collegiate Institute, North-west by Nooitgedacht.

CONTINGENCIES FUND.

[“ See REVENUE.”]

CONTRACTS.

Act No. 7, 1903.

“To amend the Law relating to the Sale and Purchase of Land.”

[8th July, 1903.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Declaration of
name of
purchaser.

1. As often as any immovable property shall be sold by public sale, the auctioneer shall, before or at, or forthwith after, the closing of the bidding, ascertain from the bidder for whom he purchases, and if such bidder shall profess to purchase for some person other than himself, then the auctioneer, or his assistant, shall, in case the purchaser so disclosed shall be approved of, take down, in writing, the name of such bidder and of the purchaser for whom he purchases, and until the name of the purchaser, whether the bidder himself or someone else for whom he purchases, shall have been taken down, in writing, there shall be no sale to any person; and the property may be again put up to competition: Provided that it shall not be necessary that the name of the person, for whom any bidder shall be purchasing, shall be announced publicly to the bystanders, if it be made known to the auctioneer, and be by him or his assistant taken down in writing as aforesaid.

Rights of
Auctioneer on
refusal to
declare

2. Should any bidder, whose bid shall have been accepted by the auctioneer, refuse to declare, when called upon so to do by the auctioneer, for whom such bidder purchases, it shall be lawful for the auctioneer either to treat and consider such bidder as being himself the purchaser, and such bidder shall, in such case, be deemed and taken to be, to all intents and purposes, the purchaser; or else, at his election, to treat such bidding as null and void, and proceed afresh as if it never had been made: Provided that the auctioneer, having once made his election either to treat such bidder as the purchaser, or to proceed to sell afresh, shall not be at liberty afterwards to alter such election.

Liability of
Agent or
Bidder.

3. If, in any case, any bidder should declare, as aforesaid, the name of some person as his principal, who shall be taken down as the purchaser, and who shall afterwards refuse to accept the property purchased in his name, then, unless the bidder shall produce a sufficient authority, in writing, from such alleged principal, authorising such bidder to make such purchase for such principal, the bidder shall himself (without prejudice to other questions between the parties) be liable to pay transfer

duty: Provided that such bidder, paying transfer duty, shall be entitled to recover the same from his principal, in case he shall succeed in proving that such principal did, in fact, give him authority to make the purchase in dispute.

Act 7, 1903.

4. The provisions of the last preceding section relative to purchases at public sales by agents for alleged principals, shall extend and apply, *mutatis mutandis*, to purchases made by agents for alleged principals, at sales not being public sales.

Application of Section 3 to private sales.

5. No auctioneer, broker, or agent shall take down, or receive in regard to any purchase, the name of any purchaser as purchasing in the manner commonly called and written "q.q.," or receive, in any other form, the name of any person as purchasing for an unnamed principal; and any auctioneer, broker, or agent contravening this section of this Act shall incur and be liable to a penalty not exceeding Fifty Pounds Sterling.

Liability of Auctioneer.

6. If, in any case, the person whose name shall have been declared and taken down as the purchaser of any property, shall deny that he gave authority for the making of such purchase, or if, for any other reason, such person shall decline to accept such purchase, and the agent or alleged agent, shall be willing to take such property for his own individual account, and the vendor shall consent thereto, no transfer duty shall be payable upon the sale, or alleged sale, to the alleged principal; but only a single transfer duty, as if the sale had been made, *ab initio*, to the alleged agent, in his individual capacity; and the solemn declarations by Law required to be made, shall be altered in the manner indicated in the forms marked A and B in the Schedule.

Exemption from Transfer Duty.

7. Every private sale, or sale made otherwise than by auction, in regard to which the purchaser shall not profess to purchase for himself, in his individual capacity, shall be wholly null and void, unless at the time of making and completion thereof, the name of the principal for whom the purchase is made shall be disclosed, and inserted in the note or memorandum, in writing, if any, which may be made in regard to such sale.

Private Sales.

SCHEDULE.

Form A.

I, A. B., do solemnly and sincerely declare that I sold to C. D., as the agent, or alleged agent, of E. F., on the day of _____, 19____, and not before, the property following, namely: (here describe the property), for the sum of £_____. And I declare that the said E. F. has declined to accept the property, and that the said C. D. has signified his willingness to take the same to and for his own

Act 7, 1903. individual account, for the said sum of £ , neither more nor less. And I further declare that there is not any agreement, condition, or understanding between me and the said C. D., whereby he has paid or is to pay to me or to any other person whomsoever, for or in respect of, or in connection with the purchase by him of the said property, any sum of money over and above the said sum of £ , save and except certain charges or payments which fall under or come within one or more of the heads or items of charges or payments following: (here set forth in order details of charges and payments other than purchase price.) And I further declare that I have not received, and that I am not to receive, nor has any other person received, nor is any other person to receive, for my use or benefit, or at my instance or request, any valuable consideration besides the sum of £ , save and except in so far as any of the charges above specified, and to be paid by the said C. D., might be held or taken to be payable for me or in my behalf. And I further declare that the said C. D., as the agent, or alleged agent, of the said E. F., is the only person who has ever purchased the said property, and that I never sold the same to any other person than, in manner aforesaid, to the said C. D., who with my consent and by virtue of the Act in that behalf provided, takes over the property aforesaid as his own. And I make this solemn declaration, conscientiously believing the same to be true.

(Signed) A. B.

Declared before me, this day of
 , 19 .

Form B.

I, C. D., do solemnly and sincerely declare that I did, in the name of E. F., purchase from A. B., on the day of , 19 , and not before, the property following, namely: (here describe the property) for the sum of £ , and I declare that the said E. F. has declined to accept the said property, and that the said A. B. has consented and agreed that I shall take over the said property as the purchaser thereof, for the sum of £ . And I further declare that I have not, nor has any person to my knowledge, on my account given, nor is there by me, or on my behalf, to be given, any other valuable consideration of any kind whatever, for or in respect of the alienation to me of the said property, save and except certain charges or payments which fall under, or come within, some one or more of the heads or items of charges or payments following: (here set forth details of charges and payments other than

purchase price.) And I make this solemn declaration conscientiously believing the same to be true. **Act 7, 1903.**

(Signed) C. D.

Declared before me, this
, 19

day of

Act No. 48, 1904.

“To regulate the signing of negotiable instruments by Indians.”

[9th December, 1904.]

WHEREAS it is expedient to regulate the signing of negotiable instruments by Indians :

BE IT THEREFORE ENACTED by the King’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :

1. No judgment shall be given in any Court of Law against any Indian founded upon a promissory note, bill of exchange, or other liquid document of debt, exclusive of Mortgage Bonds over immovable property hereinafter provided for, unless such promissory note, bill of exchange, or other liquid document of debt shall be in English and signed in English characters by the Indian sought to be charged, or shall have endorsed thereon a certificate signed by a Magistrate, Justice of the Peace, or Commissioner of Oaths, to the effect that such Indian signed his name or made his mark thereto in the presence of such Magistrate, Justice of the Peace, or Commissioner of Oaths, after the same had been explained and interpreted to him in the presence of such Magistrate, Justice of the Peace, or Commissioner of Oaths.

Validity of liquid documents executed by Indians.

2. No Mortgage Bond over either movable or immovable property executed by any Indian shall be accepted for registration in the office of the Registrar of Deeds unless such Mortgage Bond, or the Power of Attorney authorising the passing thereof, shall be in English and signed in English characters by the Indian by whom the same shall have been executed, or shall have endorsed thereon or attached thereto a certificate signed by a Magistrate, Justice of the Peace, or Commissioner of Oaths, to the effect that such Indian signed his name or made his mark thereto in the presence of such Magistrate, Justice of the Peace, or Commissioner of Oaths, after the same had been explained and interpreted to him in the presence of such Magistrate, Justice of the Peace, or Commissioner of Oaths.

Mortgage Bonds.

Act 48, 1904.

Certificate not to be signed by person interested.

3. No such certificate, signed by a Magistrate, Justice of the Peace, or Commissioner of Oaths, having an interest in any document in respect of which the same may be given, shall be of any force or effect.

Act not retrospective.

4. This Act shall not apply to any documents executed before the passing of this Act.

CONVEYANCERS.

[See "REGISTRATION DEEDS."]

Act No. 23, 1904.

"To provide for the admission of Conveyancers."

[23rd July, 1904.]

WHEREAS it is expedient to make provision for the admission and better control of conveyancers :

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. In this Act "conveyancer" means any person who prepares or executes on behalf of other persons deeds of transfer or other deeds proper for registration in the office of the Registrar of Deeds, or who, for reward, draws wills, marriage contracts or similar documents, or any instrument relating to property, movable or immovable. Definition of "conveyancer."

2. No person not being a notary public or an advocate or attorney of the Supreme Court shall, save as is hereinafter excepted, be allowed to practise or to take out a license as a conveyancer unless he shall have been admitted and enrolled as a conveyancer by the Supreme Court. Qualification.

3. The Supreme Court shall have power to approve, admit to practise and enrol as a conveyancer any person who has passed an examination in conveyancing prescribed by any rule of Court, and for this purpose the Court may make rules for the examination and admission of conveyancers and the conditions under which they may practise as such, and for the suspension from the right to practise, or the cancellation of admission and right to practise as such for any misconduct or for any offence. Examination of conveyancers.

4. Any person who shall have been in actual practice under license as a conveyancer before the 10th day of May, 1904, shall be entitled to be admitted without further examination. The provisions of this Section shall apply to any person whose name appears in any conveyancer's license as a partner of the person to whom such license was issued. Exceptions.

5. If any person who is by this Act required to be admitted and enrolled as a conveyancer in order to entitle him to practise as such shall without being so admitted and enrolled do any act constituting the practice of a conveyancer, he shall upon conviction be liable to a fine not exceeding Ten Pounds (£10) Sterling. Penalty for contravention of Act.

CORPORATIONS.

[See "MUNICIPAL CORPORATIONS."]

COURTS (MAGISTRATES').

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ACT No. 3, 1900 (To amend the Magistrates' Courts Act, 1896, Conduct of Prosecutions)	1
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ACT No. 32, 1905 (To amend the Magistrates' Courts Act, 1896)	3

Act No 3, 1900.

“To amend the ‘Magistrates’ Courts Act, 1896.’”

[23rd June, 1900.]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. The words

“Prosecutions for crimes and offences may be instituted and conducted by the Clerk of the Peace, or any other prosecutor duly authorised,”

occurring in Section 31 of the “Magistrates’ Courts Act, 1896,” shall be expunged, and in lieu thereof the following words shall be substituted:—

“Prosecutions for crimes and offences may be instituted and conducted by the Clerk of the Peace, or any other prosecutor duly authorised, and may be instituted by a Clerk of the Peace or duly authorised prosecutor and conducted by any other Clerk of the Peace or duly authorised prosecutor, and proceedings commenced by a Clerk of the Peace may be continued by any other duly authorised person.”

Prosecutions,
conduct of.

Act No. 13, 1901.

“To amend The Magistrates’ Courts Act, 1896.”

[30th July, 1901.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. Section 45 of the Magistrates’ Courts Act 1896, is hereby repealed, and in lieu thereof the following is enacted:

If a complaint verified by sworn deposition is made to a Magistrate by the father or guardian of a ward, or by anyone claiming to be entitled to the custody or services of a ward, that any person is harbouring or keeping such ward, the Magistrate shall, if satisfied that such complaint is well founded, direct the Clerk of the Court to issue a notice (a) to the accused, and shall appoint a day for the hearing: Provided that if the person against whom the complaint is made consents to a summary hearing, such notice may be dispensed with.

Act 13, 1901.

Powers of Magistrate to deal with complaints regarding the custody of children and unmarried native women.

Upon the day fixed for the hearing of such complaint, the same shall be enquired into and determined in like manner as suits in the Magistrates' Courts.

The Magistrate may thereupon grant an order for the return of the ward by the person harbouring or keeping such ward to the parent, guardian, or other person making the complaint, or may make an order for access by such person, and may cancel any contract or agreement made with the ward, and may make any order regarding the custody of the ward, or any such other order as to the Magistrate shall seem meet, including, in his discretion, an order for costs.

Provided always that in making orders in such cases the Magistrate shall have regard to the welfare and interests of the ward, and to the conduct of the parents or guardian, or other person entitled to the custody or services of the ward, and to the wishes of the mother as well as of the father.

The expression "Ward," as used herein, shall mean any unmarried person under the age of twenty-one years, and any unmarried female native.

(a) See *Turton v. Agard* (Dbn. Circ. 1 N.L.J., 89.) It should also be noted that the Magistrate has power to deal with destitute children under Act No. 38, 1901; see tit. "DESTITUTE PERSONS."

Act No. 32, 1905.

“ To amend the Magistrates Courts Act, 1896.”

[21st August, 1905.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

Chief Magistrates.

1. The senior magistrates exercising jurisdiction in the Boroughs of Pietermaritzburg and Durban shall be styled Chief Magistrates (a).

Extension of jurisdiction of Magistrates in Civil Cases.

2. The limit of one hundred pounds sterling placed upon the jurisdiction of magistrates in civil cases by Sections 35, 36 and 37 of the Magistrates Courts Act, 1896 (hereinafter referred to as the “ principal Act ”) shall in the case of the Chief Magistrates aforesaid be extended to three hundred pounds, and in the case of other magistrates in the Colony the limit shall be extended to two hundred pounds and any reference in the said Act to the limits of a magistrate's jurisdiction in respect of actions, orders, interdicts, arrests and all other civil matters shall be construed with reference to such extended jurisdiction : Provided that the Supreme or Circuit Court shall have concurrent jurisdiction with the Courts of Magistrates in all claims exceeding one hundred pounds.

Criminal jurisdiction of Chief Magistrates.

3. The powers of punishment in criminal cases as defined by Section 21 of the principal Act shall, in the case of the Chief Magistrates aforesaid, be extended to a fine of £50, imprisonment with or without hard labour for one year, and a whipping of twenty-five lashes or strokes.

Enforcement of judgment against defendant in another division.

4. In any case in which a person against whom a judgment of a magistrate's court has been given in a civil suit resides or is in another division, the magistrate may, upon the request of the party seeking to enforce the same, and upon payment of the usual fees for copies, transmit a certified copy of the judgment or order of the Court and subsequent orders thereon or in connection therewith to the magistrate of such other division, by whom the same shall be recorded, and execution or any other proceedings consequent upon such judgment may thereafter be had and taken either in the court of such last mentioned magistrate, or in the court of the magistrate by whom judgment was given.

Security in case of small debt process.

5. The magistrate shall not issue any process under Section 54 or Section 55 of the principal Act against a debtor who resides or is in another division, unless the person seeking to enforce the

(a) As to what persons may be appointed to be Magistrates and assistant Magistrates, see Act No. 43, 1901, tit. “ CIVIL SERVICE.”

judgment shall first lodge with the clerk of the court a sum sufficient to pay for the expenses of and incidental to procuring the debtor's attendance, including the cost of escort, if required, and of the debtor's detention at the seat of magistracy, and of his return to the place whence he is brought. **Act 32, 1905.**

6. In any case in which proceedings under Section 54 or Section 55 of the principal Act are taken in the court to which a copy of the record has been transmitted as aforesaid, the magistrate of the court in which the case was tried shall, upon the request of the magistrate of the other court, take the evidence of any witnesses whose testimony is required in such proceedings, and shall transmit such evidence to the other magistrate; and any evidence so taken may be used in the proceedings as if taken in the ordinary course of such proceedings.

Taking and transmission of evidence by one Court on behalf of the other.

Before taking such evidence notice of the first day fixed for the attendance of the witnesses shall be given to the debtor, who shall have the right to appear in person or by his attorney at the taking of the evidence, but the evidence shall be admissible for the purposes aforesaid notwithstanding that it may have been taken without the attendance of the parties or their attorneys.

Notice to defendant.

7. The proviso of Section 55 of the principal Act is hereby repealed, and the following is enacted in lieu thereof:—

Provided that no person who has paid the original debt shall be sent to or kept in prison for failure to pay interest or costs unless the magistrate shall be of opinion that the same have been incurred or increased through the perverse conduct of the debtor or through his not having used reasonable and proper efforts to pay off his indebtedness; and the magistrate may determine how much, if any, of such interest and costs shall be included in the debt on account of which the debtor is liable to be imprisoned.

Imprisonment for failure to pay interest and costs.

8. When any property is attached under a writ or order of the court of a magistrate of a division other than that in which the judgment is made, an application for the release of the property, or for setting aside the attachment, stating the ground of such application, shall be cognizable by the magistrate of the division in which the property has been attached, and the magistrate shall have power to take oral evidence with regard to any such application.

Jurisdiction in applications for release of attached property.

9. Section 80 of the principal Act is hereby repealed and the following is enacted in lieu thereof:—

There shall be a Rules Board with power from time to time to make rules of court for the purposes mentioned in Section 81 of the principal Act.

Rules Board.

Such Board shall consist of the Secretary to the Law Department and five other members appointed from time to

Act 32, 1905. time by the Governor, not less than two of whom shall be practising advocates or attorneys of the Supreme Court.

Three members shall form a quorum.

If any member is prevented by illness, absence or otherwise from attending the meetings of the Board, an appointment may be made for the time being.

An appointed member may at any time be removed by the Governor.

Rules to be approved by Governor in Council.

10. All rules made by the Rules Board shall be subject to approval by the Governor in Council, and when so approved shall take effect upon promulgation in the *Natal Government Gazette*.

Scope of Rules.

11. (1) The following Subsections shall be added to Section 81 of the principal Act:—

(k) the practice and procedure and the filing of points of claim and defence, and the framing by magistrates of the issues, where necessary, in contested civil cases and the practice and procedure in default cases.

(l) Procedure for the recovery of small debts by summary process.

(m) the giving of provisional judgment and the acceptance of proof of debt by affidavit without the attendance of witnesses in undefended cases of the following classes:—

Claims upon a liquid document or other acknowledgment of debt,

Claims for money lent, for goods sold, for work done, and for rent due:

Provided that suitable provision be made for enabling the defendant to apply within reasonable time to have the provisional judgment set aside.

(n) procedure by way of edictal citation in cases where the defendant is, or is believed to be, in any part of the British Dominions in Africa south of the River Zambesi.

(o) appointment of curators ad litem.

(p) proceedings for the attachment and distributions of moneys and property of debtors in the hands of or due by third parties, and for third parties taking steps to have such moneys judicially distributed.

(2) It shall be the duty of the Rules Board to frame a low tariff of fees and charges to be allowed to advocates, attorneys

and enrolled agents in civil cases in which money, or a money value, not exceeding the sum of Twenty Pounds exclusive of interest and costs, is claimed. **Act 32, 1905.**

(3) The Rules Board may also frame a special tariff of fees and charges to be allowed to advocates and attorneys in civil cases beyond the former jurisdiction of magistrates but brought within their jurisdiction by this Act.

COURTS—MARTIAL.

[See "MILITIA."]

COURTS (NATIVE).

Act No. 47, 1901.

“To amend the Courts Act, 1898.”

[23rd December, 1901.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

Judges' Salaries:
Griquas and Hottentots:
Return of Criminal Cases

1. Section 11 of the Courts Act, 1898, Sub section (a) of Section 52, and the words “including the people called Griquas and Hottentots” occurring in Section 5 of the said Act are hereby repealed.

Salaries and Pensions of Judges.

2. The Judges of the Native High Court shall be paid out of the Revenue of the Colony yearly salaries as follows :—

Judge President	...	...	£1,000
Each other Judge	...	...	£900

All such Judges shall be officers within the Pension Law, 1874, and their salaries shall not be liable to any deduction by way of contribution to the Superannuation Fund created by the Civil Service Act of 1894.

Quorum of Court: Decision in event of difference.

3. Any two Judges of the Native High Court shall form a quorum of the said Court.

The procedure in the event of a difference of opinion when only two Judges are sitting shall be such as may be provided by rules of the said Court.

Extension of jurisdiction of Court.

4. The following crimes shall be deemed to be within the provisions of Section 29 of the Courts Act, 1898 :—

Culpable homicide and assault of any kind, whenever committed by a Native upon a Native: Provided that if such crime shall have been committed either by or upon two or more persons, any of whom is not a Native, the crime shall not be cognizable in the Native High Court: Provided further that in so far as a charge of assault may be necessary to support an indictment for robbery, such assault shall be cognizable in the Supreme Court.

Arson, when committed only upon a Native hut or house or other Native dwelling.

Jurisdiction of Supreme Court or Native High Court in regard to conviction for a less crime than that charged.

5. The provisions of the Courts Act, 1898, or of this Act, shall not prevent a person charged in the Supreme Court or the Native High Court with any crime within the jurisdiction of the Court from being convicted and sentenced for any less crime

than that charged in the indictment, for which it would otherwise be competent to convict upon such indictment, notwithstanding that such less crime may be one which under the provisions of the Courts Act, 1898, or of this Act, would ordinarily be excluded from the jurisdiction of the Court. **Act 47, 1901.**

6. The Attorney-General may direct that any criminal case be tried by the full Court. **Trial of criminal cases by full Court.**

7. The appeal provided for in Sub-section (d) of Section 56 of the Courts Act, 1898, may, if the appellant so desires, be made directly to the full bench of the Native High Court instead of to a single Judge. **Appeal to full bench in Magistrate's Court cases.**

8. In addition to the lists of prisoners required by Section 64 of Ordinance No. 18, 1845, and Law No. 27, 1888, to be furnished to the Supreme Court, lists of all Natives confined in the several gaols of the Colony who may be awaiting trial or may not have been committed for trial, shall be furnished by the keepers of gaols to the Registrar of the Native High Court. **Gaol returns.**

9. The Registrar of the Supreme Court shall transfer to the Registrar of the Native High Court the records which by the 4th Section of Act No. 2, 1894 (a), and the 13th Section of Act No. 13, 1895, were transferred to the Supreme Court, together with the schedules and the books, documents, papers and chattels which were in terms of the said sections lodged with the Registrar of the Supreme Court; and the Registrar of the Native High Court shall thereafter have the charge of such records in like manner as of the records of the Native High Court. **Transfer of records from Supreme Court**

(a) Repealed by Act No. 13, 1895.

COURTS (SUPREME.)

[See "JUDGES," "JURIES," &c. &c.]

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Act No. 34, 1901.

"To amend the Supreme Court Act, 1896."

[26th August, 1901.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. The provisions of Section 72 of the Supreme Court Act, 1896, shall apply and be deemed to have applied to any person being a Law Agent within the meaning of the Law Agents (Scotland) Act, 1873, or a Solicitor or Attorney in the Court of Session in Scotland, in the same manner as to the other persons referred to in the said Section.

2. The following sub-section shall be added to Section 69 of the Supreme Court Act, 1896:—

(n) The manner of recording or noting evidence, and the proceedings of the Court.

3. In any criminal case in which the proceedings or judgment or sentence of a Magistrate's Court shall have been brought in appeal before a Circuit Court, an appeal shall lie at the instance of either the prosecutor or the accused person against the judgment of the Circuit Court.

4. The provisions of 59, 60, and 61 of the Supreme Court Act, 1896, shall apply, *mutatis mutandis*, to appeals from the judgment of a Circuit Court for the purposes of such appeals as aforesaid; but the Supreme Court may by any rules thereof from time to time substitute other and further suitable provisions for the provisions of sub-sections (a), (b), (c), (d), and (e), of the said Section 61, in so far as may appear proper for the purposes of such appeals.

5. The provisions of any Act for the time being in force relative to the execution or staying of a judgment and sentence of a Magistrate's Court in criminal cases which may be brought

Extension of
sec. 72 of Act
39, 1896.

Additional
powers for
making Rules
of Court.

Appeal from
judgment of
Circuit Court
on a criminal
appeal from a
Magistrate's
Court.

Procedure in
such appeals.

Execution or
stay of judg-
ment in such
cases.

in appeal before a Circuit Court shall apply also to the judgment of a Circuit Court when appealed from under the provisions of this Act, save so far as the times by any such first mentioned Act for bringing appeals may be inconsistent with this Act or the rules hereinbefore provided for. **Act 34, 1901.**

6. The Court may make rules for the performance by any Assistant Master or Assistant Registrar of any of the duties, imposed by law or otherwise, of the Master or Registrar respectively. **Duties of Assistant Master and Assistant Registrar.**

Act No. 39, 1901.

“To make certain provisions with respect to the authentication of Foreign Documents.”

[26th August, 1901.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. The Supreme Court shall have power to make rules from time to time respecting the authentication required as to the signature or execution of any documents signed or executed out of Natal, which may be produced or used in any Court or any public office in the Colony: Provided always that such rules shall not affect the law of evidence as to the proof of any document in legal proceedings, nor the authentication of any document for which special provision is made by any Law or Act (a). **Supreme Court may make rules.**

Act No. 38, 1904.

“To amend the Acts relating to the Supreme Court.”

[13th August, 1904.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. Section 32 of the Supreme Court Act, 1896, and Sections 3, 4, and 6 of Act No. 31, 1899, entitled Act “To amend the Supreme Court Act, 1896,” are hereby repealed. **Repeal of Sec. 32 of Act 39, 1896, and 3, 4, and 6, of Act 31, 1899.**

2. The Supreme Court of the Colony of Natal shall consist of one Chief Justice and three Puisne Judges, but nothing in this Section shall be deemed to affect the appointments, Commissions, or salaries of the Chief Justice and the two Puisne Judges holding office at the time of the passing of this Act. **Constitution.**

(a) See 2 N.L.J., p. 63, where Rules are published as framed under this Act.

Act 38, 1904.

Three Judges
form Full
Bench.

Quorum.

Rota by Rule.

Vacancies.

Acting Ap-
pointments.

Retiral at 65.

Pension in case
of retiral
before ten
years' service.

Commence-
ment.

3. In all proceedings or cases depending before the Supreme Court, other than criminal cases or trials with a jury, or matters within the jurisdiction of a judge in chambers, or the like, any three of the Judges, and no more, shall ordinarily sit, and shall form the full Bench of the Supreme Court; but any two Judges shall form a quorum, and shall be competent to execute all and every the powers, jurisdiction, and authorities granted to and vested in the Supreme Court. The rota of Judges so to sit shall be determined from time to time by rule or order of the Supreme Court.

4. Whenever a vacancy on the Bench of the Supreme Court shall occur, whether by the death, resignation, or sickness of any Judge, or acting Judge, of the Supreme Court, or from any other cause, the Governor may appoint some fit and qualified person to act in the place of the Judge or acting Judge whose seat shall be so vacant.

5. It shall be competent for the Governor in Council to require any Judge of the Supreme Court who shall have attained the age of sixty-five years to retire from office upon such pension as he shall be then entitled to receive.

If any Judge shall be so retired before he shall have served for the full period of ten years, he shall be entitled to receive such pension as the Governor shall in the circumstances consider to be reasonable, not exceeding one-half of the annual salary which shall have been payable to him at the time fixed for his retirement.

6. This Act shall take effect on such date after the passing thereof as the Governor in Council shall notify by Proclamation (a).

Act No. 5, 1905.

“To amend Law No. 8, 1885, relative to moneys in the hands of the Master of the Supreme Court.”

[29th May, 1905.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. The lists published by the Master of the Supreme Court, in terms of Law No. 8, 1885, shall not include any sums of less than One Pound (£1), nor shall any sum be published in more than one annual list, but all sums of Ten Pounds (£10) or upwards lodged with the Master as being due to minors shall be

(a) Notified by Procl. No. 102 of 1904, to take effect from Oct. 10th, 1904.

included once in every three years in the lists published as aforesaid, but not later than twelve years after the first publication. Act 5, 1905.

Act No. 21, 1905.

“To amend the Supreme Court Act, 1896, in relation to the office of Sheriff.”

[22nd July, 1905.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. Section 66 of the Supreme Court Act, 1896, is hereby repealed and the following is enacted in lieu thereof:—

The Sheriff shall by himself, or by deputies appointed by Government, execute all the sentences, decrees, judgments, writs, summonses, rules, orders, warrants, commands, and processes of the Supreme Court, and shall make a return of the same, together with the manner of the execution thereof, to the said Supreme Court, or to the Circuit Courts as the case may be, and shall receive and detain in prison all such persons as shall be committed to his custody by the said Supreme Court, or by the Chief Justice, or by any Judge of the said Court. Duties of Sheriff.

2. Deputy Sheriffs shall execute their authority subject to any instructions which may be given by the Sheriff, and the Government shall be responsible for the acts of all deputies appointed by them in the same way as the Sheriff would be if such deputies had been appointed by him (a). Deputy Sheriffs

(a) As to liability of the Sheriff or Messenger of a Court for acts done in execution of the duties of his office, see *Karri v. Narasimaloo*, 26 N.L.R., 184.

CRIMINAL LAW.

[See “DESTITUTE PERSONS”; “EXTRADITION”; “FOREIGN ENLISTMENT”; “GAMBLING”; “INTOXICATING LIQUORS”; “JURIES”; “LABOUR TOUTS”; “NATIVES”; “POLICE”; “POUNDS”; “REVENUE”; “SHIPPING”; “TAXES.”]

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Act No. 31, 1903.

“To amend the Law relating to Brothels and Immorality.”

[13th September, 1903.]

BE IT ENACTED by the King’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Short title.

1. This Act may be known as “The Criminal Law Amendment Act, 1903.”

Repeals.

2. Act No. 22, 1899, entitled Act “To amend the Criminal Law, and Act No. 21, 1902, entitled Act “To amend the Criminal Law,” are hereby repealed.

This repeal shall not affect any liability incurred under the said Acts or the prosecution and punishment of any offence committed prior to the commencement of this Act.

Penalties for keeping brothels.

3. Any person convicted of keeping a brothel shall be liable to be sentenced—

For the first offence to imprisonment, with or without hard labour, and without the option of a fine, for a period not exceeding three months, or to a fine not exceeding One Hundred Pounds Sterling, and, in default of payment, to imprisonment, with or without hard labour, for a period not exceeding three months, and

For a second or later offence to imprisonment, with or without hard labour, and without the option of a fine, for a period not exceeding six months, or to a fine not exceeding Three Hundred Pounds Sterling, or to both such fine and imprisonment.

Premises occupied by one or more women known to be common prostitutes and carrying on prostitution therein shall be deemed to be a brothel. **Act 31, 1903.**

4. Husband and wife who are charged with being keepers of a brothel may be jointly prosecuted under this Act. Husband and wife jointly prosecuted.

5. The following persons shall be deemed to be keepers of a brothel, viz. :— Who deemed to be keepers of brothels.

(a) Any person who permanently resides in, or keeps, or manages, or acts, or assists in the management of, or knowingly receives the whole of or any share in the money taken in any brothel.

(b) Any person who, being the tenant, lessee, or occupier of any house, room, or premises deemed to be a brothel, knowingly permits the same or any part thereof to be used as a brothel.

(c) Any person who being the lessor, or landlord, or owner of any such house, room, or premises, or the agent of such lessor or landlord, lets the same or any part thereof, or allows the same or any part thereof to be let, or to continue to be let, with the knowledge that such premises, or part thereof are or is to be used, or are or is being used as a brothel.

6. On refusal or failure by any woman found in any brothel to disclose the manager thereof, such woman shall be deemed to be the manager or one of the managers thereof; and any male person resident therein, or being the husband of any woman residing, managing, or assisting therein, shall be *prima facie* deemed to be the recipient of the whole or a part of the moneys taken therein: Provided that nothing in this section shall be deemed to apply to a husband *bona fide* judicially separated from his wife. Woman refusing to disclose manager to be deemed manager.

7. The onus of proving for the purposes of prosecutions under this Act that a house, room, or premises is being used or kept as a brothel to the knowledge of the owner, landlord, lessor, or the agent of either of them, shall be on the prosecution: Provided that— Presumption as to males.

- (1) If it be established to the satisfaction of the Court that the rent agreed upon, having regard to the rents of other houses, rooms, or premises in the same street or locality, or of similar size, description, desirability or position is excessive or exorbitant, the onus shall be on the defendant to prove that he was ignorant that the house, room, or premises was or were or became a brothel;
- (2) Proof of written notice having been given by a police

Onus of proving landlord's knowledge.

Act 31, 1903.

officer or constable to the defendant that any house, room, or premises is or are being used as a brothel, shall be conclusive evidence of knowledge on his part.

Householder may complain to magistrate.

8. It shall be lawful for any householder to give notice to the Magistrate that any house, room, or premises in the street in which such householder resides, or in the vicinity thereof, is being kept or used as a brothel, and on receipt of such notice from any two or more reputable householders relating to one and the same house, room, or premises, the Magistrate, on being satisfied as to the householders' reputability, shall require them to appear before him and there on oath declare that the contents of their notices respectively are true, and to enter into recognizances to his satisfaction to produce material evidence against the person to be accused of keeping or using such house, room, or premises as a brothel.

Procedure.

Thereafter the Magistrate may issue his warrant for the arrest of the accused, and on arrest may bind him or them over to appear before him on such day as he may fix upon to answer to the charge to be made against him or them under this Act.

Magistrate's warrant to search for identity of keepers.

9. It shall be lawful for any Magistrate who has received the notices, administered the oaths and taken the recognizances in accordance with the provisions of this Act, or on information laid before him by any police officer which information is in the opinion of the Magistrate sufficient, that any house, room, or premises is or are being kept or used as a brothel, previously to his issuing his warrant for arrest, to issue a warrant authorising any officer of police not below the rank of a sergeant, to enter at any hour of the day or night, and within such period as shall be limited therein, such house, place, or premises, for the purpose of discovering the names and identity of the keepers thereof, and there to demand the names and addresses of all persons found therein, and to demand, search for, and sieze all account books, receipts, and papers which may enable the keepers thereof to be disclosed.

Penalty for refusal to disclose identity.

Any person refusing to give his proper name and address, or giving a false name and address, or refusing to disclose the name or identity of the keepers, or to produce such books, receipts, and papers, may be summarily arrested and detained without any warrant, and shall be deemed to be guilty of contravening this Act, and shall, on conviction, be liable to a fine not exceeding One Hundred Pounds Sterling, or, in the alternative, to imprisonment, with or without hard labour, for a period not exceeding two months.

No prosecution under this section shall bar any criminal

proceedings under any of the preceding provisions of this Act, **Act 31, 1903.**
or be pleadable either as a previous conviction or previous acquittal.

10. Any contract or agreement to let for any period any house, room, or premises to be used as a brothel, is hereby declared to be null and void; and no action for rent, or any legal proceedings in respect of rent, shall be maintainable in respect of such contract or agreement.

Contracts for letting of premises for a brothel, void.

11. Any contract or agreement to let for any period any house, room, or premises which, subsequently to the making of such contract or agreement, becomes a brothel, shall, on the date of such event, be determined and rendered null and void; and the provisions in the preceding section contained with regard to rent shall apply: Provided that on proof by the lessor or landlord of his ignorance of such event, he shall be entitled to recover from his tenant, for use and occupation during such time as he was ignorant as aforesaid, such sums as would then have accrued due as rent at the rate as agreed upon.

Landlord may recover for use and occupation in certain cases.

12. The lessor of any premises used wholly or in part as a brothel, or for the purposes of habitual prostitution, shall be entitled to apply to the Magistrate for the summary ejection of any person or persons who may be using such premises or any part thereof as a brothel or for the purposes of habitual prostitution, and such Magistrate shall be entitled after enquiry to order the summary ejection of such person or persons. No fees of Court shall be charged for any such process or the execution of any such process.

Summary ejection of persons using premises as brothels.

13. Any person who

- (1) Procures or attempts to procure any girl or woman under twenty-one years of age, not being a common prostitute, or of known immoral character, to have unlawful carnal knowledge, either within or without the Colony, with any other person or persons; or
- (2) Procures or attempts to procure any woman or girl to become, either within or without the Colony, a common prostitute; or
- (3) Procures or attempts to procure any woman or girl (a) to leave the Colony with intent that she may become a prostitute elsewhere; or
- (4) Procures or attempts to procure any woman or girl to leave her usual place of abode in the Colony, such

Procuration.

(a) It was held in *Rex v. Fien*, 24 N.L.R., 472 (Beaumont, *diss.*) that this subsec. covers the case of a woman or girl who is already a prostitute.

Act 31, 1903.

place not being a brothel, with intent that she may, for the purposes of prostitution, become an inmate of a brothel within or without the Colony, shall, on conviction, be deemed to be guilty of contravening this section of the Act, and shall be liable to be imprisoned for any term not exceeding two years, with or without hard labour :

Provided that the evidence of one witness only shall not suffice to convict unless such witness is corroborated in some material particular by evidence implicating the accused.

14. Any person who

- (1) By threats or intimidation procures or attempts to procure any woman or girl to have any unlawful carnal connection either within or without the Colony ; or
- (2) By false pretences or false representations procures any woman or girl, not being a common prostitute, or of known immoral character, to have any unlawful carnal connection either within or without the Colony ; or
- (3) Applies, administers to, or causes to be taken by any woman or girl any drug, matter, or thing with intent to stupefy or overpower so as thereby to enable any person to have unlawful carnal knowledge with such woman or girl,

shall be guilty of contravening this section, and shall be liable to imprisonment, with or without hard labour, for the period of five years, and, in the case of a male, with lashes not exceeding twenty-five :

Provided that the evidence of one witness only shall not suffice to convict unless such witness is corroborated in some material particular by evidence implicating the accused.

15. (1) Every person who

- (a) Knowingly lives wholly or in part on the earnings of prostitution, or
 - (b) In any public place persistently solicits or importunes for immoral purposes, shall be liable to be imprisoned for any term not exceeding two years, with or without hard labour, and, in the case of a male convicted under Sub-section (a), to lashes, not to exceed twenty-five, in addition to hard labour.
- (2) If it be made to appear to a Magistrate, by information on oath, that there is reason to suspect that any house or place is used by a female for purposes of prostitution, and that any person residing (a) or

(a) The word "in" appears to have been omitted.

Procuring defilement by threats, fraud, or administering drugs.

Persons trading in prostitution.

frequenting the house is living wholly or in part on the earnings of the prostitute, such Magistrate may issue a warrant authorising any constable to enter and search the house and to arrest that person. **Act 31, 1903.**

(3) Where a person is proved to live with or to be habitually in the company of a prostitute he shall, unless he can satisfy the Court to the contrary, be deemed to be knowingly living on the earnings of prostitution.

16. Illicit sexual intercourse between any white woman and any coloured person as defined by the Law 15, 1869, (a), shall be unlawful; and any white woman or such coloured person contravening the provisions of this section shall be liable, on conviction, to be imprisoned with hard labour for a period not exceeding two years, and, in the case of such coloured person, with lashes not to exceed twenty-five. **Sexual intercourse between white woman and coloured person.**

17. Any person who procures any white woman for the purposes of illicit sexual intercourse at any house or place with any coloured person as above defined shall be deemed guilty of contravening the provisions of this section, and shall, on conviction, be liable to be imprisoned, with hard labour, for a period not exceeding five years, and, in the case of a male, with lashes not to exceed twenty-five. **Procurement of white woman for coloured persons.**

18. Any person being the keeper of a brothel in which any act of illicit sexual intercourse shall be proven to have taken place between any white woman and any male coloured person as above defined shall, in addition to any other penalties that may be inflicted under this Act, be liable to imprisonment, with or without hard labour, for a period not exceeding five years, and, in the case of a male, with lashes not to exceed twenty-five. **Additional penalty upon keeper in case of intercourse between white woman and coloured person.**

19. All offences against this Act shall be cognizable by the Courts of Magistrates, which shall have jurisdiction to impose the sentences respectively appointed by this Act: Provided that no Magistrate, except a Magistrate exercising jurisdiction in a Municipal Borough, shall impose a longer term of imprisonment than one year, or a greater fine than One Hundred Pounds Sterling; and no Magistrate shall impose a longer term of imprisonment than two years, or a greater fine than Two Hundred Pounds Sterling. **Magistrate's jurisdiction.**

(a) The definition referred to is: tribes or belonging to the tribes originally in this Colony and its neighbourhood." See also this definition discussed per Wragg, J., in *Vinden v. Ladysmith Local Board*, 17 N.L.R., 78.

Act 31, 1903.

Prosecutions
and fines in
boroughs.

20. All contraventions of this Act committed within a Borough established under the provisions of Law No. 19, 1872, or of any Act passed in lieu thereof, may be prosecuted on behalf of the Borough by the Superintendent of Police, or by any other person thereto appointed by the Mayor, and any fines recovered for any offences so prosecuted shall be paid to the Borough fund.

Saving of
rights of
Crown.

This section shall not affect the right of prosecution of any offence by the Attorney-General on behalf of the Crown.

Act No. 1, 1904.

“ To amend the Cattle Stealing Act, 1898.”

[17th March, 1904.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Repeal and
re-enactment
of Section 57 of
Cattle Stealing
Act, 1898.

1. Section 57 of the Cattle Stealing Act, 1898, is hereby repealed, and the following Section is substituted therefor (a):

Every native who shall be convicted of cattle stealing or cattle killing shall be liable:—

- (a) On the first conviction to a whipping of not more than twenty-five lashes, or to imprisonment, with hard labour, for any term not exceeding five years, or to both such whipping and imprisonment.
- (b) On the second conviction to imprisonment with hard labour for any term not less than three years and not exceeding nine years.
- (c) On a third or further conviction to imprisonment with hard labour for any term not less than six years and not exceeding fifteen years; and
- (d) On each second or subsequent conviction to a whipping of not more than thirty lashes, in addition to any sentence of imprisonment:

Provided always:

1. That the punishment of whipping shall be in no case adjudged to be inflicted upon women.
2. That if at any time arrangements shall have been made by the Natal Government for the carrying out in any other Colony or country of sentences of transportation, then upon a second or subsequent

(a) Act No. 41, 1905, sec. 4, enacts that this Act shall not apply to cases tried in a Magistrate's Court.

conviction the convicted person may, in lieu of any sentence of whipping or imprisonment, be sentenced to be transported to such Colony or Country for any term not less than three years and not exceeding twelve years. **Act 1, 1904.**

3. That in the case of offenders who appear to be under the age of sixteen years, any whipping shall be inflicted with a rod, and not with a lash.

Act No. 22, 1904.

“To amend Act No. 22, 1898, entitled Act ‘To amend the Law relative to the Trial and Punishment of the Crimes of Rape and Indecent Assault and Conduct.’”

[23rd July, 1904.]

BE IT ENACTED by the King’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. Section 5 of Act No. 22, 1898, is hereby repealed, and in lieu thereof the following is enacted:—

Repeal of
Section 5 of
Act No. 22, 1898

5. “The crime of indecent assault shall be cognizable in the Courts of Magistrates, and upon conviction thereof the Magistrate shall have power to impose punishment by imprisonment for a period not exceeding two years, with or without hard labour, or by a whipping not exceeding twenty-five lashes, or by both such imprisonment and whipping.”

2. A Magistrate by whom any person is convicted of any of the offences mentioned in Section 9 of Act No. 22, 1898, may, in lieu of or in addition to a sentence of imprisonment as therein provided, order a whipping of not more than twenty-five lashes.

Offences
punishable by
lashes.

Act No. 15, 1905.

“To provide for the Imprisonment in this Colony of Criminals sentenced in neighbouring Territories.”

[29th June, 1905.]

BE IT ENACTED by the King’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

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 Governor may under Section 3 of this Act declare

Criminals sen-
tenced in a
South African
Colony may be
imprisoned in
Natal.

Act 15, 1905. the provisions of this Act to extend or apply, may be sent into, imprisoned, or detained in custody in Natal 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 proof of imprisonment in Natal.

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 Act.

Commencement of Act.

3. This Act shall take effect so far as it concerns any Colony or Territory in South Africa as soon as the 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 (*a*).

Governor may remove criminals sentenced in Natal to another Colony.

4. Whenever the 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 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.

Short Title.

5. This Act may be cited as "The Prisoners Detention Act, 1905."

(*a*) Notified to take effect as regards the Transvaal Colony, by Procl. No. 80, 1905; as regards the Orange River Colony, by Procl. No. 111, 1905; as regards the colony of The Cape of Good Hope, by Procl. No. 71, 1906.

Act No. 41, 1905.

“To amend the Cattle Stealing Act, 1898.

[2nd December, 1905.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. Sections 67 and 68 of the Cattle Stealing Act, 1898, and Section 3 of Proclamation No. 9, dated the 27th day of January, 1903, shall be and the same are hereby repealed. Repeals

2. Notwithstanding anything contained in the Cattle Stealing Act, 1898, Magistrates shall have summary jurisdiction in all cases of cattle stealing and cattle killing as defined by the said Act, and a remittal for trial shall not be necessary for the purpose of creating such jurisdiction. Summary jurisdiction.

3. A Magistrate may in any such case impose a sentence not exceeding two years' imprisonment, with or without hard labour, and with or without lashes, in no case exceeding twenty. Maximum punishment.

4. Act No. 1, 1904, shall not apply to cases tried in a Magistrate's Court. Act 1, 1904

5. The passes required by Section 6 of the Cattle Stealing Act, 1898, for the removal of cattle may be issued by any person appointed by the Government for that purpose. Passes.

CROWN LANDS.

[See “ AGRICULTURE ” ; “ COMMONAGES ” ; “ GAME. ”]

CUSTOMS.

[See “ REVENUE. ”]

DEATH DUTIES.

The Successions Duty Act, 1905.

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Act No. 35, 1905 (a).

"To impose Duties on Successions to Property."

[26th August, 1905.]

WHEREAS it is expedient to impose certain duties on successions to property :

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. Every past (b) or future disposition of property (c) by

Definition of terms used in Act.

(a) This Act is modelled on the provisions of 16 and 17 Vic. c. 51 ("Succession Duty Act, 1853"). Under the provisions of that Act many cases are cited in the footnotes to "Chitty's Statutes": these decisions (or such as appear to be applicable) are referred to in this and succeeding footnotes. In each case a comparison should be made of the words of the Imperial with those of the Colonial Act, in order to verify the applicability of the English decision to the Colonial case. It must be understood that the editor assumes no responsibility for the relevancy or other-

wise of such cases as are referred to in these notes.

(b) The Act applies to interests created by disposition before the Act, and falling into possession after it (*Wilcox v. Smith*, 26 L.J., Ch. 596; *Att.-Gen. v. Lord Middleton*, 3 H. and N. 125).

The Act applies to persons wherever domiciled (*In re Wallop's Trusts*, 33 L.J., Ch. 351. See also *In re Lovelace*, 4 De G. and J. 340. But see also note to sec. 15 *infra*).

(c) See *Att.-Gen. v. Montefiore*, 21 Q.B.D., 461.

reason whereof any person has or shall become entitled to any property (not being immovable property out of this Colony), or the income thereof, upon the death of any person dying after the commencement of this Act (a), either immediately or after any interval, either certainly or contingently, and either directly or by way of substitutive limitation (b), and every devolution by law of any beneficial interest in property or the income thereof upon the death of any person dying after the commencement of this Act, to any other person, in possession or expectancy, shall be deemed to have conferred or to confer on the person entitled by reason of any such disposition or devolution, a succession (c), and the term "successor" shall denote the person so entitled (d), and the term "predecessor" shall denote the testator, intestate, ancestor or other person from whom the interest of the successor is or shall be derived (e).

Act 35, 1905.

2. There shall be levied and paid to the general revenue in respect of every succession as aforesaid, according to the net value thereof, the following duties, that is to say (f) :

Rates of duties to be levied.

1. Where the successor shall be the lineal descendant or

(a) See note (b), ante.

(b) This sec. includes powers of appointment (*In re Lovelace*, 4 De G. and J. 340; *In re Payton*, 7 H. and N. 265), in which case it seems the donor of the power is the predecessor, not the donee (*In re Barker*, 7 H. and N. 109).

(c) In 16 and 17 Vic. c. 51, s. 1, the term "succession" is defined as denoting "any property chargeable with duty under this Act"

See *Att.-Gen. v. Robertson* [1893], 1 Q.B. 293-C.A., where marriage settlement funds were settled in trust for wife for life, with remainder to husband for life, with remainder in default of issue to wife absolutely if surviving, and it was held that on the death of the husband (without issue), a succession was taken by the wife, in respect of which succession duty became payable on the amount of the funds less the value of the wife's life interest therein.

(d) See *Re Jenkinson*, 24 Beav. 64; 26 L.J., Ch. 241; *Att.-Gen. v. Yelverton*, 30, L.J., Exch. 333; *Att.-Gen. v. Baker*, 4 H. and N. 19.

(e) Where S., by deed of entail in Scotland, gave an estate to her eldest

son, A., and the heirs of his body, whom failing, she gave the same to her grandson, C., and the heirs of his body, with remainders over, and A. died without issue; it was held, that S. was the "predecessor" of C. (*Saulton (Lord) v. Advocate Gen.*, 3 Macq. H.L. Cas. 659; 6 Jur., N.S. 713; see also *Earl of Zetland v. Lord Advocate*, 3 App. Cas. 505).

Upon a second marriage of a lady, her second husband settled his property on the children of her former husband; it was held that the husband, and not the wife, was the predecessor (*In re Ramsay's Settlement*, 30 Beav. 75).

Where a settlor having by a settlement executed prior to the time fixed for the coming of the Act into operation, reserved to herself a general power of appointment, executed that power by will, and died after the Act came into operation: it was held, upon appeal, that the property was subject to the payment of the duty, and that the case was within sec. 2 of 16 and 17 Vic. c. 51; that the 4th had no application, nor the 12th (*In re Lovelace's Settlement*, 4 De G. and J. 340).

(f) Cf. sec. 10 of 16 and 17 Vic. c. 51.

Act 35, 1905.

the lineal ancestor of the predecessor, a duty of one per centum upon such value.

2. Where the successor shall be a brother or sister of the predecessor, a duty at the rate of two per centum upon such value.
3. Where the successor shall be a descendant of a brother or sister of the predecessor, a duty at the rate of three per centum upon such value.
4. Where the successor shall be in any degree of consanguinity to the predecessor other than is hereinbefore described, or shall be a stranger in blood to him, a duty of Five Pounds per centum upon such value.

Exemption of surviving spouse.

3. Every surviving spouse being a successor of his or her deceased spouse shall be exempt from the payment of any duty upon such succession.

Of Estates under £100.

4. Every estate the net value of which does not exceed One Hundred Pounds (£100) Sterling shall be exempt from the payment of any duty under this Act.

Act to apply to donations *mortis causa*.

5. The provisions of this Act shall apply *mutatis mutandis* to the making of a donation *mortis causa* in the same way as if the donor had been a predecessor and the donee had been a successor under this Act.

Master of Supreme Court charged with duties under Act.

6. The duties by this Act imposed shall be under the care and management of the Master of the Supreme Court, who shall be entitled to collect and recover the same.

Duty may be paid in country divisions to Magistrate.

7. It shall be lawful for any person domiciled in any part of this Colony other than the borough of Pietermaritzburg, and liable to the payment of duty under this Act, to pay such duty as assessed by the Master, to the Magistrate of his Division, who shall account for it to the Master.

Account to be filed before distribution.

8. All executors whether testamentary or dative, and all trustees, tutors and curators shall before making any distribution of an estate file with the Master of the Supreme Court, a full and true account of all property in regard to which duty shall be payable under this Act, excluding immovable property not actually in this Colony, and which property shall have been received or disposed of by them in their said capacities, and of the value of such property together with the names of the successor and predecessor, and their relation to each other, and all such other particulars as shall be necessary or proper for enabling the said Master to ascertain the duties payable. An account, valuation, and other particulars as aforesaid shall be filed with the Master of the Supreme Court in all estates notwithstanding the provision of Section 4 of this Act.

The Master may, if dissatisfied with the value placed upon any succession, either appraise the same himself or cause the succession or any part thereof to be appraised by some person or persons appointed by him for the purpose, and he shall assess the duty upon the footing of the value as ascertained by such appraisal, together with the reasonable expenses of such valuation, subject to appeal as hereinafter provided.

Act 35, 1905.

Appraisal
by Master.

The succession duty shall be paid upon the values so assessed, together with the expenses of valuation, unless such values shall not exceed those previously shown in the account filed with the Master, to the extent of one-sixth of the value thereof, in which case the expense of the valuation shall be borne by the Government.

Succession
duty paid on
assessed value

This Section shall not be deemed to require that any account shall be confirmed by the Supreme Court which would not otherwise be subject to such confirmation.

9. Any person liable to duty under this Act who shall be dissatisfied with the assessment made by the Master may appeal by application to the Supreme Court on notice to the Master, and the Court shall determine the matter of such appeal and the costs thereof, and may direct any enquiry, valuation, or report to be made for the purposes of such appeal.

Appeal against
Master's
assessment.

10. Every executor, whether testamentary or dative, and every other person charged with the administration of an estate shall deduct from the succession of every successor in the estate under his administration the amount of succession duty payable by such successor, and if any such succession duty shall not have been so deducted, he and the successor entitled to such succession shall severally as well as jointly be liable for the whole of the duty.

Deduction of
succession
duty.

11. As often as any succession shall be an annuity, then the value of such annuity shall be calculated according to the tables contained in the schedule annexed to the Act of the Imperial Parliament called "The Succession Duty Act, 1853" (a).

Annuities—
value of.

12. In estimating the value of a succession, no allowance shall be made in respect of any contingent incumbrance thereon; but in the event of such an incumbrance taking effect as an actual burden on the interest of the successor, he shall be entitled to a return of a proportionate amount of (b) duty paid by

Allowance in
respect of
incumbered
succession.

(a) Cf. sec. 31 of 16 and 17 Vic. c. 51. The section of the Imperial Act is confined to cases where the testator died after the commencement of the act, and does not extend to cases where, the death being before, the act of calculation and payment occur after the commencement of the statute (*Corn-*

wallis (Earl), In re, 11 Ex. 580; 25 L.J., Ex. 149).

(b) This is a reproduction of sec. 35 of 16 and 17 Vic. c. 51, except that in the Imperial Act the word "the" occurs before "duty," and the word "an," before "incumbrance," is omitted.

Act 35, 1905.

him in respect of the amount or value of the incumbrance when taking effect.

Duty to be calculated without regard to contingencies.

13. In estimating the value of a succession, no allowance shall be made in respect of any contingency upon the happening of which the property may pass to some other person; but in the event of the same so passing the successor shall be entitled to a return of so much of the duty paid by him as will reduce the same to the amount which would have been payable by him if such duty had been assessed in respect of the actual duration or extent of his interest (a).

Duty chargeable only on value of succession actually obtained.

14. Where a successor shall not have obtained the whole of his succession at the time of the duty becoming payable, he shall be chargeable only with duty on the value of the property or benefit from time to time obtained by him; and whenever any duty shall have been paid on account of any succession, and it shall afterwards be proved to the satisfaction of the Master of the Supreme Court that such duty, not being due from the person paying the same, was paid by mistake, or was paid in respect of property which the successor shall have been unable to recover, or from or of which he shall have been evicted or deprived by any superior title, or that for any other reason it ought to be refunded, the Treasurer may (b), upon the certificate of the Master, refund the same to the person entitled thereto.

Refund of duty paid in error.

One duty only on transmitted successions.

15. Where the interest of any successor in any (c) property shall, before he shall have become entitled thereto in possession, have passed by reason of death to any other successor or successors, then one duty only shall be paid in respect of such

(a) This reproduces sec. 36 of the Imperial Act.

(b) This sec. reproduces sec. 37 of the Imperial Act with the necessary references to the "Master" and "Treasurer" in lieu of commissioners. By "the Treasurer" is meant the Colonial Treasurer. It will be noted that the Act of refunding, by this officer, is permissive, not compulsory. In the English Act the corresponding enactment is that "the commissioners shall thereupon refund the same to the person entitled thereto."

(c) This reproduces sec. 14 of 16 & 17 Vic. c. 51, except that in that Act the word "personal" qualifies the word "property." In this connection it may be of interest to note that it has been held in England, that personal property (except leaseholds) of a party dying

domiciled abroad, is not chargeable with succession duty, although situated in England at his death (*Wallace v. Att.-Gen.*, L.R., 1 Ch. 1), unless it be disposed of under a power of appointment in an English settlement, in which case it is chargeable, although the party dying be a foreigner domiciled abroad (*Re Lovelace*, 4 De G. and J., 340; see also *In re Cigala's Settlement*, 7 Ch. D. 351), whether the appointor becomes entitled to the power upon a death before or after 1853 (*Re Wallop's Trusts*, 1 De G., J. and S., 656).

Property devised by a foreigner domiciled abroad to be invested in English securities is chargeable (*Att.-Gen. v. Campbell*, L.R. 5, H.L. 524), and so is property settled by deed (*Lyall v. Lyall*, L.R. 15 Eq. 1).

interest, and shall be due from the successor who shall first become entitled thereto in possession ; but such duty shall be at the highest rate, which, if every such successor had been subject to duty, would have been payable by any one of them. **Act 35, 1905.**

16. Any reference in this Act to the Master of the Supreme Court includes an assistant Master. **Inclusion of Assistant Master.**

17. The Governor in Council may from time to time make regulations for any matters connected with the administration of this Act. **Regulations.**

18. This Act shall not apply to movable property passing from the estate of a native to a native, or from the estate of an Indentured Indian to an Indentured Indian or to the wife, son or daughter of an Indentured Indian. **Natives and Indentured Indians.**

The word "native" as used in this Section means a native subject to native law, and the expression "Indentured Indian" means an Indian serving under indenture in pursuance of Law No. 25, 1891, or of any like Act. **Definitions.**

19. This Act may be cited as "The Successions Duty Act, 1905." **Short title.**

Act No. 21, 1906.

"To amend the Successions Duty Act, 1905."

[27th July, 1906.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. Notwithstanding anything to the contrary contained in the Successions Duty Act, 1905, no succession duty under the said Act shall, from and after the taking effect of this Act, be levied in respect of property situate in the United Kingdom of Great Britain and Ireland. **Exemption of property in United Kingdom.**

2. The Governor may by proclamation extend the provisions of this Act so as to apply in respect of any Colony, British possession, or State in South Africa so long as there shall be in such Colony, British possession or State no succession duty levied in respect of property situated in this Colony. **Extension of Act to other Colony.**

3. This Act shall take effect on the first day of August, 1906. **Commencement.**

DEATHS.

[See "REGISTRATION (BIRTHS, &c.)"]

DECLARATIONS.

[See "OATHS."]

DEEDS.

[See "REGISTRATION (DEEDS)."]

DENTISTS.

Act No. 37, 1904.

“To enable certain persons in the Province of Zululand to practise as Dentists.”

[13th August, 1904.]

WHEREAS by Act No. 37 of 1903, entitled Act “To assimilate the Laws in force in the Province of Zululand with the general Laws of Natal,” the Dentists’ Act, 1896, as amended by Act No. 21, 1899, is applied to the Province of Zululand :

AND WHEREAS it is expedient to allow certain persons residing in the Province of Zululand, not duly qualified for registration under the said Dentists’ Act, 1896, to be so registered :

BE IT THEREFORE enacted by the King’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. Every person who, on the First day of January, 1904, shall have been *bona fide* engaged in the practice of dentistry or dental surgery, in the Province of Zululand, either separately or in addition to his practice as a physician, surgeon or accoucheur, shall be entitled to be registered under the Dentists’ Act, 1896: Provided, however, that such person shall, unless otherwise specially qualified, be restricted to carry on such practice in the province of Zululand.

DERELICT STOCK FUND.

Act No. 22, 1905.

“To provide for the disposal of certain moneys, now in the hands of the Master of the Supreme Court, known as the ‘Derelict Stock Fund.’”

[24th July, 1905.]

WHEREAS during the recent hostilities quantities of live stock were taken possession of by His Majesty’s forces and handed over to the Government of Natal, by whom the same were kept and sold for the benefit of whom it might concern :

AND WHEREAS after payment of the claims of certain owners of stock so sold a balance of the proceeds of sale now remains in the hands of the Master of the Supreme Court, and it is desirable to make provision for deciding upon any further claims and for the final disposal of the remainder of such moneys :

BE IT THEREFORE ENACTED by the King’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. After the commencement of this Act, it shall not be competent for the Supreme Court or any other court of law to entertain any action or application in which claim may be made for the payment of any part of the moneys now in the hands of the Master of the Supreme Court, being the proceeds of the sale of stock taken by His Majesty’s forces during the Boer War, 1899-1902, and known as the “Derelict Stock Fund,” and any action, application, or other proceedings which may have been instituted in respect of any such claim before the commencement of this Act shall be discharged and cease.

Prescription of Actions.

2. The Master of the Supreme Court shall as soon as may be after the commencement of this Act pay over to the Colonial Treasurer all such moneys as aforesaid, and the same shall be placed by the Treasurer to the credit of an account to be called the “Derelict Stock Account.” Such moneys shall be known as the “Derelict Stock Fund,” and shall be dealt with as hereinafter provided.

Derelict Stock Account.

3. The Governor shall appoint a Commissioner to be called the Derelict Stock Fund Commissioner, whose duty it shall be to consider and take evidence upon claims which may be received from persons claiming to be entitled to payment from the Fund, and to assess what amount, if any, shall be paid to each claimant.

Appointment of Commissioner.

Act 22, 1905.

The Governor may, at any time remove such Commissioner and may appoint another Commissioner in his place.

In the event of such Commissioner being prevented by sickness or otherwise from attending to the discharge of his duties, the Governor may appoint another person to act in his place.

Owners of stock entitled to payment from fund.

4. The owners or the legal representatives of the owners of stock taken to a Derelict Stock Camp in Natal shall, subject as hereinafter provided, be entitled to payment from the Fund of the net proceeds of the sale of their stock.

Limit of time for preferring claims.

All claims for such payments shall be sent in writing to the Colonial Treasurer within two months after the date on which this Act comes into force, and after the expiration of that time no further claims whatever shall be received or considered: Provided that it shall not be necessary for persons who sent their claims against the said Fund to Sir Thomas K. Murray, K.C.M.G., in his capacity as Commissioner of Derelict Stock between the 13th day of August and the 30th day of September, 1904, to send such claims to the Colonial Treasurer, but all such claims shall be deemed to have been sent in under this Act.

All claims received under this Act shall be passed by the Colonial Treasurer to the Derelict Stock Fund Commissioner, to be dealt with by him as hereinafter set forth.

Certain claims excluded.

5. (1) No claim may be made by any person who was not an inhabitant of Natal at the outbreak of the Boer War, 1899-1902. For the purposes of this Section the territories known as the Northern Districts shall not be deemed to be included in Natal. A conviction for the crime of treason shall not bar a claim upon the Fund unless the claim is barred by the preceding part of this sub-section.
- (2) No claim may be made by any person who has, before the passing of this Act, received any payment from the Fund.
- (3) No claim may be made by any person for the proceeds of the sale of stock in respect of which he has heretofore had a claim assessed by the Invasion Losses Enquiry Commissioners, and passed for payment and paid.

Any such claim as aforesaid shall be rejected by the Derelict Stock Fund Commissioner.

Proof of claims

6. All applicants shall furnish such information and proofs as the Commissioner may require to enable him to carry out his duties under this Act.

7. (1) The Commissioner shall have power to examine witnesses upon oath, and to call for the production of any evidence and documents which he may require.

Act 22, 1905.
Powers of
Commissioner

(2) Upon the request of the Secretary to the Commissioner, the Clerk of any Magistrate's Court shall issue the process of the Magistrate's Court for compelling the attendance of any witnesses who may be required. Such process shall be served in the like manner and shall have the like effect as a subpoena of the Magistrate's Court.

(3) Minutes shall be kept of all proceedings of the Commission and of all evidence taken.

8. In assessing any claim, the Commissioner shall deduct the respective percentages set forth in Part I. of the Schedule to this Act, and the value of the remainder shall be assessed at the respective prices set forth in Part II. of the said Schedule.

Assessments
and deductions

Any points not herein specially provided for shall be dealt with by the Commissioner as shall to him seem proper.

9. The assessments of the Commissioner shall be final and conclusive.

Commis-
sioner's Assess-
ment to be
final.

10. The Commissioner shall, after he has assessed all claims received by him as aforesaid, forward the same to the Colonial Treasurer with his report thereon.

11. The Colonial Treasurer shall deduct and retain from the Derelict Stock Fund all and every the costs and expenses incurred in and about the said Fund, its management, and the assessment of claims in reference thereto, so that the Government may not be put to any expenditure in the premises, and out of the balance remaining he shall pay the claims assessed as aforesaid either in full, provided the amount in hand is sufficient for that purpose, or otherwise, *pro rata*.

Costs and
expenses to be
deducted from
the fund.

All payments shall be made to the persons in whose favour the claims shall have been assessed, and such payments shall be deemed to finally settle and satisfy such claims.

12. If after all of the claims as assessed shall have been paid in full, any balance of the Fund remains unexpended, the same shall be paid by the Treasurer to the capital account of the Consolidated Loans Fund established under Act No. 46, 1904.

Disposal of
balance of
fund.

13. This Act may be cited as the "Derelict Stock Fund Act, 1905."

Short title.

DERELICT STOCK FUND.

Act 22, 1905.

SCHEDULE.

PART I.

Average percentage of deaths which occurred in Derelict Stock Camps:—

Horses	...	...	...	...	31.1
Cattle	...	...	...	...	19.4
Sheep	...	...	...	...	39.06
Goats	...	...	...	...	12.1

PART II.

Average prices at which Stock was sold in the said Camps:—

Horses and Cattle	,	...	...	£6 each.
Sheep	11s. 6d. each.
Goats	17s. 6d. each.

DESTITUTE PERSONS.

Children's Protection Act, 1901.

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Act No. 38, 1901.

“To make provision for the support and training of destitute children and juvenile offenders.”

[26th August, 1901.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

PART I.

Preliminary.

Short title.

1. This Act may be cited as the “Children's Protection Act, 1901.”

Repeal of certain clauses of Ord. 2, 1850.

2. Sections 5 to 11 of Chapter II. of Ordinance No. 2, 1850, are hereby repealed, without prejudice to the validity or conditions of any contract of apprenticeship made thereunder, and save as aforesaid, nothing in the said chapter shall hereafter apply to the apprenticeship of destitute children.

Interpretation.

3. In this Act

“Society” means any society, person, or body of persons, approved by the Magistrate or Minister, as the case may be, and keeping a school or other institution for the support, care, and education of children.

“Government Institution” means a school or home, or the like, wholly maintained by Government for the like purposes.

“Destitute Child” means any child apparently under the age of 16 years. **Act 38, 1901.**

- (a) Who is found habitually begging or being in any public place for the purpose of begging ;
- (b) Who is found wandering about and not having any home or settled place of abode, or visible means of subsistence, or in a state of destitution, or who is without father, mother, or lawful guardian, or whose father, mother, or lawful guardian is unable or neglects to provide for his support ;
- (c) Who by reason of the neglect or drunkenness or other vices of the parents is suffered to grow up without salutary parental control and education, or in circumstances exposing such child to idle and dissolute life ;
- (d) Who resides in a reputed brothel, or with any known or reputed prostitute, whether such prostitute be the mother or not ;
- (e) Who associates or dwells with any person (not being the parent of the child) known or reputed to be a thief, or drunkard, or a vagrant ;
- (f) Who, being a girl, is found behaving in an indecent manner in a street or public place ;
- (g) And every child apparently under the age of ten years found engaged in any casual employment after the hour of seven o'clock in the evening.

“Casual Employment” means employment for the purpose of gain in streets or other places in vending any article, and employment of any other kind outside the child's home which, in the opinion of a Magistrate, may be detrimental to a child's health.

“Juvenile Offender” means any child apparently under the age of 16 who is convicted of a crime or offence punishable by imprisonment.

“The Minister” means the Minister of the Crown having charge of the administration of this Act.

PART II.

Destitute Children.

4. Any police officer (a) or constable (b) may apprehend without warrant any destitute child and bring him before the Bringing destitute children before Magistrate.

(a) Quære, whether “police officer” means “officer” or “policeman,” as defined by Acts No. 1, 1894, and No. 37, 1898, tit. “POLICE,” Vol. 2. See sec. 38 sub-sec. (d), post.

(b) See note to sec. 17, post.

Act 38, 1901.

Magistrate (a), and any minister of religion or Justice of the Peace may give any destitute child into the charge of the police (b) for that purpose, and any Magistrate becoming aware of any destitute child may cause such child to be brought before him.

Investigation by Magistrate.

5. It shall be the duty of the Magistrate before whom any child is brought as being destitute to investigate the facts of the case to ascertain whether such child is a destitute child within the meaning of this Act. For this purpose the Magistrate shall have power to summon witnesses, and, if practicable, the parents or person having the actual custody of such child shall be notified of the examination, and may be summoned.

Magistrate's order for disposal of destitute child.

6. If the Magistrate finds that the child is destitute, he may order the child to be dealt with in any of the following ways:—

- (a) Delivered to a society or Government institution;
- (b) Apprenticed to some suitable person;
- (c) Boarded out with some suitable person or placed in his custody;
- (d) Placed at service with some suitable person.

No arrangement under this section shall be made for a term exceeding three years: Provided that upon the expiry of the term the arrangement may by a like order, and with the approval of the Minister, be extended, or exchanged for any other of the arrangements above specified; but provided also that no such arrangement or extension thereof shall extend beyond the time when the child shall have reached the age of eighteen years.

Remand for enquiry, &c.

7. The Magistrate may, from time to time, remand a child whilst enquiring and arranging for the disposal of the child.

Custody pending disposal.

8. During the time when a child is in custody, and until he has been handed over to the society or person to whose care he is to be committed, it shall be the duty of the Magistrate to make such suitable arrangement as may be practicable in order to avoid keeping the child in a lock-up or other place of detention for criminals, and in no case shall a child apprehended as being destitute be kept in the company of persons charged with crime or drunkenness.

Record of order.

9. Every order made for the disposal of a child as hereinbefore provided, shall be recorded in the Court, and shall specify the term thereof, the name of the society or person to whom the child is committed, and the nature of the contract or arrangement.

(a) "The magistrate" appears to mean "any magistrate"; see next sec. which speaks of "the magistrate before whom any child is brought."

(b) Quære, whether "the police" means the "police force" as defined by Act No. 1, 1894.

Such order shall be sufficient authority to any constable or officer of the law to execute the same, and any person who shall resist or interfere with the execution of the order shall be liable to a fine not exceeding Ten Pounds Sterling.

Act 38, 1901.

Execution of order.

10. In deciding as to the disposal of a child the Magistrate shall consider what may be for the best interest of the child according to the circumstances, and if he shall decide to apprentice the child or place him out at service he shall obtain such reasonable terms in regard to wages as the circumstances will permit. It shall also be his duty to ascertain the child's religion, and to secure that proper facilities are allowed for the practice of religious duties, and he shall not place any child in any institution or home where it will be brought up in another religion unless, in the case of a child under the age of ten years, the guardian, if accessible, shall approve (a).

Magistrate to consult interests of child.

Provisions regarding religion.

11. An apprenticeship shall be for the instruction and employment of a child in some useful calling, trade, or other occupation, including service as a farm labourer or in such domestic or other service as will fit him to earn his livelihood.

Conditions of apprenticeship

12. An officer having authority on behalf of the society to which a child is delivered by the Magistrate's order, or the person to whom a child is so assigned for apprenticeship or otherwise, shall sign an agreement as nearly as may be in the form prescribed by the regulations under this Act.

Agreement of apprenticeship or otherwise with a society

The prescribed forms shall in every case contain an engagement for the lodging, maintenance, care, clothing and training of the child, and for such child being allowed to attend, if practicable, a place of worship of the religion to which he belongs.

The agreement shall also be signed by the Magistrate or on his behalf by some person thereto authorised by the Minister, and shall be recorded and kept by the Magistrate.

No such agreement as is in this section mentioned shall be required in the case of a Government institution.

13. Any such agreement made with a society or person requiring to be paid for the maintenance of the child may contain an undertaking on behalf of the Government for such a payment at a rate not exceeding Seven Shillings and Six pence per week.

Agreement for payment for maintenance.

14. Such payments shall be defrayed out of the general revenue of the Colony, and shall be made by an officer of the

Payment of maintenance money.

(a) See sec. 40, post, as to instruction of child in religion,

Act 38, 1901. Magistrate's Office or by such other officer as may be authorised by the Minister.

Reception of child not compulsory, but agreement binding.

15. No society or person shall be obliged unwillingly to undertake the reception of a child under this Act, but having once undertaken the reception of a child under this Act shall be bound by the agreement unless discharged therefrom in manner provided in this Act.

Inquiry as to treatment of child.

16. Whenever there is reason to believe that any child is being ill-treated or neglected, or kept in such a manner as to bring him within the definition of a destitute child in any house, building, or other place, then upon complaint thereof being made upon oath by any officer of a society or Government institution, or by any Minister of Religion, Justice of the Peace, or Police Officer or Constable, the Magistrate may issue a warrant to enter by day or night to search for such child and bring him (*a*) before the Magistrate to be dealt with under this Act (*b*).

Search warrant may be issued.

It shall not be necessary in any such complaint or warrant to specify any particular child (*c*).

Recovery of absconding child.

17. If any child shall abscond or attempt to abscond or be unlawfully removed or enticed from the custody of any society, institution or person in whose charge he has been placed under the provisions of this Act, all Constables (*d*) shall assist in retaining or recovering the custody of such child.

PART III.

Juvenile Offenders.

Order for dealing with juvenile offender under this Act.

18. When any sentence of imprisonment is passed upon a juvenile offender, it shall be lawful for the Court, in addition to passing such sentence, to make an order, in manner as hereinbefore provided in the case of destitute children, directing such offender to be sent to a Government institution or to a society, or to be apprenticed to some suitable person.

(*a*) Pronouns of masculine gender include the same pronouns in the feminine (or neuter) gender. See Law No. 3, 1887, s. 5, tit. "STATUTES," Vol. 3.

(*b*) Cf. 57 and 58, Vic. c. 41, s. 10. As to liability of persons obtaining search warrants, see *Hope v. Evered*, 17 Q.B.D. 338; *Lea v. Charrington*, 23 Q.B.D. 45, 272.

(*c*) Cf. sub-s. (5) of sec. 10 of 57 and 58 Vic. c. 41. The enactment referred to reads: "It shall not be necessary in any information or warrant under this section to name the child." The follow-

ing comment is made thereon by the learned editor of "Chitty's Statutes:" "This provision may obviate technical difficulties, but to dispense wholly with the name of the child, or with evidence of its existence or identity, may lead to oppressive searches."

(*d*) Quære, whether "constables" includes "policemen," or "members of the police force," as defined in Act No. 1, 1894, tit. "POLICE," Vol. 2. See note to sec. 4, ante. See also sec. 9, ante, where the word "constable" is followed by "or officer of the law."

19. The Magistrate of the Division in which any such child is imprisoned, may at any time during the term of imprisonment, make an order as provided in the foregoing section. **Act 38, 1901.**
Order may be made at any time during term of imprisonment.

20. Save as is otherwise provided, the provisions of this Act relative to destitute children placed in the charge of a society or apprenticed by order of a Magistrate, shall apply to juvenile offenders in regard to whom an order has been made by the Magistrate as aforesaid.
Application to juvenile offenders of provisions regarding destitute children.

21. When a child is required to be taken from a gaol by reason of an order made as aforesaid, a copy of such order shall be lodged with the keeper of the gaol, and shall be a sufficient warrant to him for the removal of the child from the gaol.
Warrant for removal from gaol.

22. An order by a Magistrate in terms of this part of the Act may be made for any term not less than three years and not extending beyond five years, or beyond the time when the child shall have reached the age of eighteen years.
Duration of order.

23. A sentence passed upon a juvenile offender shall only be deemed to be suspended by reason of his being removed from the gaol under the Magistrate's order as aforesaid, and in the event of the child proving unmanageable or committing any offence punishable by imprisonment during the period in which the order is in force, or repeatedly attempting to escape from the custody in which he was placed, it shall be in the discretion of the Magistrate of the Division in which the child is being kept, by warrant under his hand, to order such child to be recommitted to prison, there to undergo imprisonment in the manner prescribed by the original sentence, for so much as he may deem proper of the term of imprisonment which remained unexpired at the time when the child was removed from the goal, and in that case any contract of apprenticeship which may have been entered into shall be deemed to be cancelled from the date of such warrant.
Recommittal of unmanageable child to prison.

24. Save as last aforesaid, the sentence passed upon a juvenile offender shall be deemed to have been completed on the expiry of the period specified in the Magistrate's order for his delivery to a society or institution, or for his apprenticeship.
Sentence to expire on completion of term of order.

25. Notwithstanding anything contained in this Act, a juvenile offender shall not be discharged from the custody in which he has been placed as aforesaid so long as the sentence of imprisonment, though suspended, remains uncompleted, unless the Governor shall, in the exercise of his prerogative, have remitted the unexpired portion of the sentence; but this section shall not be deemed to prevent the transfer of a child in terms of this Act from one place of detention or service to another.
Child to remain in custody until sentence completed or remitted.

Act 38, 1901.

Investment of wages.

26. The wages of a juvenile offender shall not be paid to him, but to the Clerk of the Magistrate's Court, or such other person as the Minister may appoint for the purpose, and such clerk or person shall deposit the same in the Government Savings Bank, in his official name, for the benefit of such offender.

Wages may be applied for benefit of child

27. Notwithstanding the preceding section, the Magistrate may order any part of a juvenile offender's wages to be applied for any necessary purposes for the child's benefit.

Payment of wages to child or other disposal on completion of term.

28. Subject to the provisions hereinafter contained, any balance of the wages so deposited, with the interest thereon, shall be paid to the child to whom they belong, upon his attaining the age of eighteen years, or the Magistrate may order them to be applied for the advantage of the child at any time after such child shall have ceased to be under the operation of this Act.

PART IV.

Guardianship and Maintenance.

Magistrate to be guardian of ward.

29. The Magistrate by whom an order has been made in terms of this Act respecting any child subject to the operation of this Act shall, until such child has attained the age of eighteen years, or has otherwise ceased to be under the operation of this Act, be the guardian of such child to the exclusion of the child's parent or other guardian, but subject to the provisions hereinafter made in that behalf.

Exercise of powers in respect to property by person specially appointed.

30. The powers and authority of the Magistrate in respect of the wages or other property of any such child may be exercised by any person whom the Minister may appoint for that purpose.

Powers as guardian of child's person may be exercised by person in charge.

31. While any such child is in the charge of any society, Government institution, or person, in pursuance of a Magistrate's order, the superintendent, matron, or other person having the direct charge of the school or institution at which the child is placed, or the master or other person in whose charge the child has been placed, may exercise the powers and authority of the Magistrate as guardian of the person of such child.

Substitution of guardian in place of Magistrate.

32. If at any time suitable provision shall have been made for relieving the Magistrate of the office of guardian, the person thereto appointed by the Minister shall become guardian in place of the Magistrate, either generally or in respect of any particular children, as may be decided by the Minister.

Liability of parents for cost of maintenance

33. The parents of every child brought within the operation of this Act, not being a juvenile offender under sentence of imprisonment, shall be liable to pay the cost of its maintenance

at the rate of Seven Shillings and Sixpence per week, whilst such child is maintained by the Government, or in a Government institution, and shall be liable to pay to the Government the cost for which the Government may be liable under any agreement with a society or person not exceeding the rate of Seven Shillings and Sixpence per week (a). Act 38, 1901.

The parent (b) of a juvenile offender shall be liable to pay the cost of maintenance at the rate of Seven Shillings and Sixpence a week whilst such child is being maintained at the expense of Government (otherwise than in prison), or the cost for which the Government may be liable under agreement with a society or with the master to whom the child may be apprenticed.

For the purposes of this part of the Act, the word "parent" includes step-parent.

34. The parent shall be obliged to pay such sum as aforesaid to the Clerk of the Magistrate's Court week by week, and his liability for any sums due under this Act shall continue up to the end of three years from the date when the child shall cease to be under the operation of this Act. Payment of cost: duration of parent's liability.

35. A parent may be sued in the Magistrate's Court (c) by any officer authorised for the purpose by the Magistrate or Minister for any sum for which he may be liable (d), and which he has not paid. Any such suit shall be without costs, excepting such expenses as may be incurred in the execution of any process. Recovery of cost.

36. If any parent shall represent to the Magistrate that he is unable from poverty to pay the sums for which he is liable (e), the Magistrate may, after due enquiry, make an order suspending the payment or reducing the same until further order, or may make such other order as in the circumstances may be reasonable: Provided that such order shall be without prejudice to any liability on the part of the parent if at any time thereafter until the expiry of the three years hereinbefore referred to, such parent shall be of sufficient means and ability to pay. Suspension or reduction of payment for maintenance.

(a) See Act No. 10, 1896, s. 2 tit. "DESTITUTE PERSONS," Vol. 1.

(b) "Parent," in this par, is used in contradistinction to "parents" in the preceding par., but no distinction is made between male and female. In the remaining sections of this Part, however, the use of the pronoun "his" in relation to "parent" seems to signify that the noun is used only in the masculine gender.

(c) It is submitted that this should be the court of the magistrate of the division where the parent resides, not necessarily the court of the magistrate by whom an order has been made in respect of the child.

(d) Presumably, "in terms of this Act," as in sec. 34.

(e) See note to sec. 35, supra.

Act 38, 1901.

Parent's liability not discharged by insolvency.

37. The liability of the parent for such maintenance shall not be discharged or affected by insolvency.

PART V.

Special Provisions Regarding the Custody and Treatment of Children.

Visitation of place where child is kept.

38. Every school, institution (including a Government institution), or other place where a child is placed in pursuance of this Act, may be visited on any day and at reasonable hours by an authorised visitor, and it shall be the duty of the person in charge to permit such visitor to see the child, and he shall give every facility for the visitor to enquire and satisfy himself that the child is being well treated, and is being fed, clothed and taught, and in every respect dealt with according to the requirements of this Act and of the agreement entered into in respect of such child.

Who are authorised visitors.

The expression "authorised visitor" includes:—

- (a) The Minister.
- (b) The Magistrate of the Division where the child is, or the Magistrate by whose order the child was placed in charge.
- (c) Any officer appointed for the purpose by the Minister, or authorised by the regulations.
- (d) An officer of police not below the rank of sub-inspector.
- (e) Members of either House of Parliament, the Mayor of a borough, the Chairman of a Local Board, any medical practitioner.
- (f) The Presidents of Benevolent Societies.

Periodical official visits.

39. The Magistrate of the Division shall see that every place where a child is kept under this Act is visited at least once in every six weeks by an officer of police or some other person appointed by the Minister for the purpose. A report of each such visit shall be made to the Magistrate.

Instruction in and practice of child's religion.

40. It shall be the duty of the person in charge of a school or institution (including a Government institution) where children are received under this Act, and of every person in whose charge a child is placed under this Act, to allow every such child proper opportunities for instruction in and the exercise of the religion to which the child belongs, and he shall permit a minister of such religion to visit and instruct the child at such times and under such conditions as may be defined by the regulations under this Act,

41. If at any time during the continuance of an order relative to a destitute child, or of any renewal of an order, the parent, guardian, or other relative of such child (not being a known or reputed prostitute, thief, or drunkard) shall satisfy the Minister that he or she is able and willing to support such child, and to provide suitably for its care and maintenance, it shall be lawful for the Minister in his discretion to order the child to be delivered up to such parent, guardian, or relative: Provided that the powers given by this section shall not be exercised during the term of an apprenticeship, except by consent of the master, and that, if the child has been placed at service, three months' notice shall be given to the master.

Act 38, 1901.

Delivery of destitute child to parent, guardian, or relative may be ordered in certain cases.

42. If at any time it shall appear from the reports made to the Magistrate or otherwise that any child is being neglected whilst in the charge of a society or person under an agreement made in terms of this Act (other than an agreement of apprenticeship), or that in any respect the requirements of this Act or of the agreement are not being properly observed, the Minister may cause notice in writing to be given to such society or person to at once remedy the cause of complaint, and if at the end of one month from the date of such notice it shall appear to the Minister that any such cause continues, the Minister may direct the Magistrate to remove the child from the charge of such society or person, and thereupon the agreement with such society or person shall cease and determine, and the Magistrate may make any other suitable provision for the child in terms of this Act.

Removal of child when not properly treated.

43. If the master to whom any child is apprenticed under this Act shall at any time fail to give the child proper training and instruction, or shall in any other way neglect or disregard any duties imposed upon him by this Act or his agreement, and if, after one month's notice having been given as provided in the preceding section, any ground of complaint shall still appear, the Minister may cause written notice to be given to the master, clearly stating the particulars of the supposed breach of duty, and requiring him to attend before the Magistrate of the Division in which he resides on a day specified in the notice, not being less than seven days from the date of the notice, and (if deemed desirable) to have such child with him. The master shall be obliged to obey the requirements of the notice under the penalties for disregard of a subpoena of the Magistrate's Court.

Inquiry in case of apprenticed child not being properly treated.

44. On the appointed day the Magistrate shall enquire into the complaint, and shall report to the Minister, and may, if he think it desirable, order the child to be kept in such place as he

Hearing of complaint, and report.

Act 38, 1931. may appoint until the Minister's decision shall be known.

On Magistrate's report contract may be determined.

45. If from the Magistrate's report it shall appear that any cause of complaint is well founded, and that there are substantial reasons for determining the contract of apprenticeship, he may cause notice to be given to the master in writing determining the apprenticeship from a specified date, and thereafter other provision may be made in terms of this Act for the maintenance and care of the child.

Transfer of child from one institution, &c. to another.

46. The Minister may, in his discretion, upon the application or with the consent of any society or person in whose charge a child has been placed, authorise the Magistrate to make an order for transferring such child to some other society or person, or to a Government institution, subject to the like conditions as are prescribed for bringing a child under the operation of this Act: Provided that such transfer shall not be to the prejudice of the child, or interfere with the course of instruction under articles of apprenticeship.

Restrictions on assignment of apprenticeship.

47. No master shall assign or transfer to any other person the articles of apprenticeship of any child apprenticed to him under this Act, except in terms of the preceding section.

Disposal of child on dissolution of the society, &c.

48. If any society shall by dissolution or otherwise become unable to keep any child, or if the master of an apprentice shall relinquish business, or if any person having charge of a child under this Act shall die or become incapacitated by sickness or otherwise, or become insolvent, the Magistrate may make any further order for the disposal of the child in terms of this Act, and he shall, if possible, in the case of a child under apprenticeship, arrange for a further apprenticeship in the same trade or calling.

PART VI.

Regulations, Offences, Legal Proceedings.

Regulations.

49. The Governor in Council may, from time to time, make regulations for all the purposes of this Act, and for giving effect to the objects and intention thereof in any matter not specially provided for.

Any such regulations may appoint penalties not exceeding Ten Pounds Sterling for contraventions thereof.

Regulations for Government institutions.

50. The Minister may make regulations for the conduct of Government Institutions, and for the management and discipline of children placed there, and for the conduct of the officers and servants employed in such institutions.

Such regulations may provide for the moderate whipping of boys under the age of sixteen.

51. The Governor may make rules for regulating the management and discipline of children placed under care in terms of this Act. Such rules may provide for the moderate whipping of boys under the age of sixteen years by the person in whose care they shall have been placed.

Act 38, 1901.

Rules for management and discipline.

52. If any person—

- (a) Holds communication with a child contrary to the regulations of a Government Institution ;
- (b) Unlawfully enters a school or other building belonging to such institution, and does not depart therefrom when required to do so by an officer thereof ;
- (c) Being an officer of a Government Institution or Society negligently or voluntarily allows a child to escape ;
- (d) Unlawfully removes a child, or induces or assists a child to escape from the custody in which such child is placed in terms of this Act, or attempts to do any of such things ;
- (e) Knowingly harbours or conceals a child which has been removed, or which has escaped from lawful custody under this Act ;
- (f) Being a person to whom any child is apprenticed or in whose charge a child has been placed in terms of this Act, ill-treats or neglects to discharge his duty to such child ;

Offences³

he shall be guilty of a contravention of this section, and upon conviction thereof in the Court of a Magistrate shall be liable to a fine not exceeding Twenty Pounds Sterling, or to imprisonment, with or without hard labour, for any term not exceeding one month, or to both such fine and imprisonment.

If any offence is committed under Sub-section (f) of this section, the manager, matron, or other person having superintendence of the school or other institution where a child is placed under this law shall be liable unless the Magistrate is satisfied that he or she had no knowledge of the act complained of, and no reasonable means of knowing or preventing the same. But this provision shall be without prejudice to the liability of the person by whom such offence was actually committed.

53. Any male child who shall abscond from the school or institution at which he is placed, or from the service of his employer or of a person under whose charge he has been placed under this Act, or shall be guilty of any misbehaviour, shall upon conviction before the Magistrate be liable, at the discretion of the Magistrate, to receive a whipping not exceeding twenty strokes.

Punishment of absconding male child.

Act 38, 1901.

Forfeiture of
wage by
absconding
apprentice.

54. If any child subject to the operation of this Act who is earning wages under articles of apprenticeship or otherwise is guilty of absconding from his lawful custody or of other misbehaviour, the Magistrate before whom he is charged may order so much of the child's wages as may seem proper, and not exceeding six months' wages for any one offence, to be forfeited.

Unmanageable
children.

55. If any child subject to the operation of this Act frequently or continuously misbehave himself so as to be unmanageable, he shall be guilty of an offence, and upon conviction shall be liable to imprisonment for any term not exceeding three months with or without hard labour, and (if not previously under sentence as a juvenile offender) he shall thenceforth be subject to the operation of this Act as a juvenile offender.

Prescription of
actions.

56. No action shall be brought against any person for anything done in pursuance of this Act after the expiry of six months from the date of the act complained of, and notice in writing of such action and the cause thereof shall be given to the defendant one month at least before such action.

DISTILLERIES.

[See "REVENUE."]

DOGS.

Act No. 29, 1903.

“To make provision for preventing the spread of Rabies in Dogs.”

[13th September, 1903].

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. This Act may be known as “The Rabies Act, 1903.” Short title.
2. It shall be lawful for any person to destroy any dog showing open symptoms of rabies, or which is known or reasonably believed to have been bitten by a rabid dog or other rabid animal (*a*). Destruction of rabid dogs.
3. Any veterinary surgeon, or police constable, or any person having authority in that behalf from the Principal Veterinary Surgeon, may destroy, or order and enforce the destruction of any dog which he may believe to be dangerous, upon evidence to his satisfaction that such dog has been in contact with a rabid dog or other rabid animal. Powers of authorised person to order destruction.
4. Nothing in this Act shall be deemed to affect the liability of any person who destroys a dog wilfully or without reasonable grounds as required by this Act. Liability not affected by wilful destruction.
5. Any reference in the foregoing sections of this Act to dogs shall apply also to any other animal liable to the disease of rabies. Application to other animals
6. The Governor may at any time by notice in the *Natal Government Gazette* order that no dog shall be allowed to be in any street or road, or anywhere except upon private premises unless it is muzzled. Such order shall state the period for which it is to be in force, and may be made for the whole Colony, or any part of it, or any town or place specially mentioned: Provided that dogs being used for sporting purposes or for the herding of sheep or cattle, shall, if under the control (*b*) of a person of European descent during the time they are actually used for such purpose, be exempt from such clauses of the Regulations as may refer to the muzzling of dogs. Order as to muzzling.
7. The expression “muzzled,” as used in this Act, means Definitions.
wearing a muzzle of a pattern approved by the Government, and

(a) Cf. 2 and 3 Vic. c. 47, see 61.

(b) The question whether or not a dog is under control is one of fact, not of law (*Wren v. Pocock*, 34 L.T. 697).

Act 29, 1903. securely fastened so as to admit of the dog breathing and drinking without obstruction. “Unmuzzled” means not muzzled according to the requirements of this section.

Destruction of unmuzzled dogs during currency of order.

8. Any dog which during the currency of an order made under this Act is found unmuzzled in any street or road, or anywhere, except upon private premises, may be taken and destroyed by any police constable, or by or under orders of any Magistrate, police officer, or officer of the Veterinary Department.

Regulations.

9. The Governor in Council may from time to time make regulations for any of the purposes necessary for the proper carrying out of this Act.

Offences and penalties.

10. Any person contravening a regulation made under this Act, or knowingly allowing an unmuzzled dog to be away from private premises during the currency of a muzzling order, shall be liable to a fine not exceeding Ten Pounds Sterling.

DRUGS.

[See “FOOD AND DRUGS (ADULTERATION).”]

DUNDEE CORPORATION,

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Act No. 21, 1903.

"To confer borrowing powers upon the Town Council of Dundee, in addition to the powers heretofore given to the Local Board of Dundee, for the purpose of enabling the Town Council to pay off an existing debt of Ten Thousand Pounds, borrowed by the Dundee Local Board under the provisions of the Dundee Loan and Waterworks Act, 1897, and to provide for the improvement and extension of the water supply."

[7th September, 1903.]

WHEREAS it is expedient to increase the borrowing powers of the Town Council of the Borough of Dundee to enable the said Town Council:

- (1) To pay off and discharge an existing debt of Ten Thousand pounds, borrowed by the Dundee Local Board under the provisions of the "Dundee Loan and Waterworks Act, 1897";
- (2) To improve and extend the water supply of the said Borough:

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:

1. The Town Council of the Borough of Dundee is hereby authorised to borrow from time to time, to an amount not exceeding Twenty-five Thousand Pounds, the moneys required:—

Loan of
£25,000
authorised.

- (a) For the purpose of paying off the existing debt of Ten Thousand Pounds, borrowed by the Local Board of Dundee under the provisions of the "Dundee Loan and Waterworks Act of 1897":
- (b) To provide for the improvement and extension of the Town water supply.

2. This Act may be cited as the "Dundee Loan and Waterworks Act, 1903."

Short title.

Act 21, 1903.

Application of moneys.

3. The moneys borrowed under this Act shall be applied to the objects mentioned in the first section hereof, and to no other object.

Loan a charge upon rates, &c.

4. The sums authorised to be borrowed under this Act, and the interest payable thereon, shall be a charge upon the rates, rents, and revenues of the Borough of Dundee.

Remedy for default in payment of interest.

5. In case the interest payable on any moneys borrowed under this Act shall be in arrear and unpaid for thirty days after the time appointed for the payment thereof, it shall be lawful for the Supreme Court of the Colony of Natal, at the instance of any person whose interest shall be in arrear, and as often as such default shall occur, to cause a special rate to be levied upon the real or immovable property situate within the Borough of Dundee, which is now or may hereafter be liable to be rated for Borough purposes under any Law or Act now or hereafter to be in force in the Colony of Natal, to the intent that all arrear interest may be paid out of the proceeds of such special rate.

Date of repayment.

6. The moneys borrowed under this Act shall be repayable within twenty-five years from the date of borrowing.

Remedy for default in repayment of loan.

7. In case any moneys borrowed under this Act shall not be repaid upon demand at or after the date fixed for the payment thereof, it shall be lawful for the Supreme Court, as often as such default shall occur, and at the instance of any person whose claim shall be unsatisfied, to cause a sale or sales to be made of so much of the Town Lands of the Borough as may be necessary for the purpose of raising and paying the moneys due and payable under this Act, and in case the moneys received by such land sales shall be insufficient to pay and satisfy all moneys due and payable, then the deficiency shall be made good by a special rate or special rates, to be levied in the manner hereinbefore provided with respect to the payment of arrear interest.

Debentures or stock.

8. The moneys hereby authorised to be borrowed may be raised upon debentures or stock, to be called "Dundee Corporation Stock," and hereinafter referred to by the word "Stock."

Interest.

9. Such debentures or stock shall bear interest at a rate not exceeding six pounds per centum per annum, falling due on the 30th day of June and on the 31st day of December in each year, and payable out of the rents, rates and revenues of the Borough, or out of the proceeds of the sales of land, and payment thereof shall be made by the Town Clerk.

Regulations relative to stock.

10. The Town Council of the Borough of Dundee may, from time to time, make rules and regulations providing for all or any of the following things:—

- (a) For registering Stock in the books to be kept for that purpose by the said Town Clerk;

(b) For managing the creation, registration, issue, and transfer of Stock ; **Act 21, 1903.**

(c) For paying interest on Stock ;

(d) For issuing Stock Certificates.

11. For the purpose of the construction of the works authorised by this Act, the Lands Clauses Consolidation Law, 1872, and all the provisions thereof, shall be incorporated with this Act, save in so far as expressly varied by this Act. **Incorporation of Lands Clauses Law.**

12. The Town Council of the Borough of Dundee may purchase or take such lands as may be required for the purposes of the works and undertakings authorised by this Act. **Expropriation of land.**

13. The Contract between Charles George Willson and Samuel Bromley Kemp, a copy whereof is printed as a schedule to the Dundee Loan and Waterworks Act, 1897, is, in so far as the same may be necessary, re-confirmed and re-validated. **Confirmation of contract**

14. In addition to the works already carried out under and by virtue of the provisions of the Dundee Loan and Waterworks Act, 1897, the Town Council of the Borough of Dundee is further authorised to construct all works, and to do all things necessary for damming up the water upon the farms "Berning" and "Craigie Burn," in the Dundee Division of the County of Klip River, and for making reservoirs, filter-beds, and surface tanks, and for laying water pipes through the said farms "Berning" and "Craigie Burn," and through the Crown Lands and Town Lands and the Borough of Dundee, and for leading water through such pipes, and for storing water on or near to the Town Lands of the Borough of Dundee, and for distributing water through such portions of the Borough as the Town Council may, from time to time, determine to bring within the water area, and to make such works, and to do and perform all such further and other acts, deeds, matters, and things as may be necessary for the due carrying out of the objects of this Act. **Construction of works and distribution of water.**

15. The site upon which the said water shall be dammed and the route of the water-pipes shall follow as near as may be the line laid down in the map or chart filed with the Clerk of the Legislative Council and the Clerk of the Legislative Assembly, and in the Town Office of the Borough of Dundee. **Site of dam and route of pipes.**

16. If the taking, impounding, diversion, appropriation, or conveyance of water under the authority of this Act shall deprive any person other than the said Charles George Willson and Samuel Bromley Kemp, or their successors in title, as owners of "Berning" and "Craigie Burn," of any water or right of water which he may at the time of such taking, impounding, diversion, appropriation, or conveyance of water possess, or be entitled to possess, and shall thereby cause damage to such person or to his **Compensation for injury by taking water.**

Act 33, 1904.

minerals found or being in, upon, or under the said lands, with the further rights

- (a) By itself, or by any person authorised for such purpose, to enter upon the said lands for the purpose of prospecting for, mining, or removing therefrom any minerals, and for the carrying out thereon and therein of such workings as may be required for the utilization or removal thereof.
 - (b) To grant leases of or licenses over any part or parts of the said lands for mining purposes and for carrying out mining operations in and under the said lands and for all purposes connected with mines.
 - (c) To make and use roads to and from such mines.
- (2) The said transfer shall be under and subject to all existing Leases or Agreements between the Colonial Government and third parties, which said Leases or Agreements shall continue in full force and effect, notwithstanding the said transfer.
 - (3) The Colonial Government shall have the right at all times, free of charge, to enter upon, resume and take possession of any unalienated portions of the said lands as may be required for any public purposes whatsoever, and upon notice of such resumption the said Mayor and Councillors shall sign and execute all necessary documents to effect transfer, and shall transfer to the Colonial Government the land so resumed, which transfer the Registrar of Deeds is hereby empowered to register free of all charge.
 - (4) All authorised roads, thoroughfares, railways, railway stations, telegraphs, telegraph stations, and watercourses now made or running on the said lands, shall remain free and uninterrupted as in their present or past use.
 - (5) Any person, by order of the Colonial Government, shall have the right, free of charge, at all times, for the purpose of constructing public buildings, or works, to quarry and convey away any stone, sand, or other materials required for the aforesaid purposes from any part or parts of the land hereby granted, and not sold, alienated, or let to hire by the said Mayor and Councillors.
 - (6) The said lands shall be liable, without compensation to the holder or holders thereof, to have any roads, railways, railway stations, telegraphs, telegraph stations, reservoirs, or watercourses, made over any part of them

Existing
Leases and
Agreements.

Lands for
public
purposes.

Authorised
Roads, &c., to
remain free.

Right of
Colonial
Government
to quarry
stone, &c.

Roads, rail-
ways, &c., may
be made—
without
compensation.

Act 33, 1904.

for the public use and benefit by order of the Colonial Government.

- (7) The land shall be subject to the right of all travellers to outspan upon the said land in suitable places, to be selected and appointed by the said Mayor and Councillors, for not more than twenty-four hours, unless longer detained by just cause.

Travellers' right to outspan.

2. The Registrar of Deeds is hereby empowered to transfer the said land to the Mayor and Councillors of the Borough of Dundee free of Transfer Duty.

Authority to Registrar of Deeds.

3. This Act shall commence and take effect from and after the promulgation thereof in the *Natal Government Gazette*.

Commencement.

Act No. 13, 1905.

“To confer borrowing powers upon the Town Council of the Borough of Dundee, in addition to the powers heretofore given to the said Town Council, for the purpose of enabling the said Town Council to carry out certain works in order to provide for the improvement and extension of the Water Supply of the said Borough.”

[26th June, 1905.]

WHEREAS the Town Council of the Borough of Dundee were authorised by the “Dundee Loan and Waterworks Act, 1903,” to borrow an amount not exceeding Twenty-five Thousand pounds (£25,000), of which the sum of Ten Thousand Pounds (£10,000) was to pay off a debt borrowed by the Local Board of Dundee under the provisions of the “Dundee Loan and Waterworks Act of 1897,” the balance, namely, Fifteen Thousand Pounds (£15,000) being the estimated amount required to provide for the improvement and extension of the Town Water Supply:

AND WHEREAS the said sum of Fifteen Thousand Pounds (£15,000) has been found inadequate for the purpose of completing the works authorised under the “Dundee Loan and Waterworks Act, 1903”:

AND WHEREAS it is expedient to increase the borrowing powers of the Town Council of the Borough of Dundee, for the purpose of completing the works contemplated and authorised by the said “Dundee Loan and Waterworks Act, 1903”:

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. The Town Council of the Borough of Dundee is hereby authorised to borrow from time to time the moneys required for

Loan of £5,000 authorised,

Act 13, 1905. the purpose of completing the works contemplated and authorised by the “Dundee Loan and Waterworks Act, 1903,” in order to provide for the improvement and extension of the Water Supply of the said Borough, to an amount not exceeding Five Thousand Pounds (£5,000), in addition to the sum of Twenty-Five Thousand Pounds (£25,000) authorised under the said Act.

Application of moneys.

2. The moneys borrowed under this Act shall be applied to the object mentioned in the last preceding section, and to no other object, and the onus of proving that such moneys were so applied shall rest with the said Town Council.

Loan a charge upon rates, &c.

3. The said moneys shall be deemed to be moneys borrowed under the “Dundee Loan and Waterworks Act, 1903,” and shall rank as a charge on the rates, rents and revenue of the said Borough next only to the moneys already borrowed under the Act above specified.

Commencement.

4. This Act and the “Dundee Loan and Waterworks Act, 1903,” shall be read and construed together as one Act, and this Act shall commence and take effect from and after the promulgation thereof in the *Natal Government Gazette*.

DURBAN CORPORATION.

[As to Public Health, see Act No. 44, 1901, sec. 38, tit. "PUBLIC HEALTH."]

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Act No. 11, 1900.

"To authorise and empower the Colonial Government of Natal and the Town Council of the Borough of Durban to contract for the erection of a Sea Pier."

[29th June, 1900.]

WHEREAS Robert Dixon Sykes, of Durban, in the Colony of Natal, being desirous, either by himself or by a Company to be promoted by him, of constructing a Promenade or Sea-pier, starting from a point opposite to, or near the spot, where the extension of West Street in the Borough of Durban opens on to the shore of the Indian Ocean at the spot commonly known as the "Back Beach," within the said Borough, and extending across the Admiralty Reserve into the Indian Ocean, has approached the Colonial Government of Natal, and the Town Council of the Borough of Durban, with a view of obtaining permission to erect such Sea-pier, and to use such Pier as a Public Promenade Pier or Pleasure Resort, and to erect and carry on on such Pier, shops, stalls, refreshment bars, tea-rooms, bathing stages and the like :

AND WHEREAS the said Borough of Durban is, at the present time, without any Promenade Pier or Pleasure Resort of the kind above specified, and the erection and opening and carrying on of such a Pier as aforesaid will afford recreation to a

Act 11, 1900. large number of the inhabitants of Durban and others, and will add to the attractions of the said Borough as a watering place :

AND WHEREAS it is necessary that the said Government and Town Council, before contracting with the said Robert Dixon Sykes, or any Company as aforesaid, should be properly authorised to so contract ;

AND WHEREAS it is desirable that such power to contract should be conferred upon the said Government and Town Council :

BE IT THEREFORE ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of the Colony of Natal, as follows :—

Colonial Government and Durban Corporation authorised to contract with Robert Dixon Sykes or a Company for erection of a Sea-pier on Back Beach, with certain rights and conditions.

1. The Colonial Government and the Town Council of the Borough of Durban are hereby authorised to contract with Robert Dixon Sykes, or any Joint Stock Company as aforesaid (which may be promoted by the said Robert Dixon Sykes for the erection and working of the said pier), for granting to the said Robert Dixon Sykes, or such Company as aforesaid, the right, whether upon lease or grant, of erecting a Sea-pier from a point opposite to, or near the spot, where the extension of West Street opens on to the shore of the Indian Ocean (commonly known as the Back Beach), within the Borough of Durban, and extending across the Admiralty Reserve into the Indian Ocean, with the right to use such Pier as a Public Promenade Pier or Pleasure Resort, and to erect and carry on on such Pier, shops, stalls, refreshment bars, tea-rooms, bathing stages and the like, with further power to insert in any such contract, lease or grant, conditions as may be mutually agreed upon with reference to the right of the said Town Council or Colonial Government, or both, to acquire either before, or at the expiration of such contract, lease or grant, the said Pier, with all its appurtenances, and also conditions with reference to the security, if any, to be given by the said Robert Dixon Sykes, or any such Company as aforesaid, for the completion of the said Pier, and with reference to the approaches to the said Pier and to the Beach, and retaining walls in connection therewith, and as to provision against sand drift, access for the public along the Beach under the Pier, and with reference to the forfeiture of the rights of the said Robert Dixon Sykes, or any Company as aforesaid, in case of his or their failure to observe the conditions of any such agreement as aforesaid, and generally such conditions as may be agreed upon with reference to the erection, working and control of the said Pier, and further, such conditions as may be agreed upon with reference to the times and

manner in which such Pier shall be conducted and used, and the prices of admission thereto, and as to the use and occupation, and terms of hiring of any such shops, stalls, refreshment bars, tea-rooms, bathing stages, and the like: Provided always, that in no case shall the period of the lease or grant extend for a greater period of time than fifty (50) years from the date of completion of the said Pier. Act 11, 1900.

2. In the event of any contract being entered into between the said Colonial Government and the Town Council of the Borough of Durban of the one part, and the said Robert Dixon Sykes, or any Company as aforesaid, of the other part, relative to the erection and working of the said Pier, then the said Robert Dixon Sykes, or any Company as aforesaid (subject to the approval of the Colonial Government and the Town Council of the Borough of Durban), may from time to time frame tariffs of charges to be paid by persons visiting, using, or frequenting the said Pier, and he or the said Company, as the case may be, shall have power to collect and enforce any such tariff of charges when so approved. Tariff of Charges for persons using, &c., the Pier.

3. The said Robert Dixon Sykes, or any such Company as aforesaid (subject to the sanction of the Governor in Council and the approval of the Town Council of the Borough of Durban as aforesaid), shall have power to frame and promulgate Bye-laws providing for the better protection, control and management of the said Pier and use thereof, by persons visiting or using the same, and making provisions for penalties to be exacted for any infringement of such Bye-laws; any such penalties may be sued for and recovered in any competent Magistrate's Court at the instance of the said Robert Dixon Sykes or any company as aforesaid. Power to make Bye-laws for protection, control, and management of Pier.

4. The said Robert Dixon Sykes, or any company as aforesaid, shall have power and authority (subject only to the consent of the Governor in Council and the Town Council of the Borough of Durban) to sell, dispose of, or sublet the rights of erecting and working any such Pier as aforesaid, but the purchaser from the said Robert Dixon Sykes shall not be entitled to sell, dispose of, or sublet such rights. Power to sell or dispose of rights of erecting and working Pier.

5. For all purposes of rating, licensing under the Liquor and Trade Licensing Laws in force in the Borough of Durban, Police, Sanitary, Building and other Municipal Bye-laws, the said Pier and appurtenances shall be deemed to be within the boundaries of such Borough and subject thereto: Provided, however, that in assessing the rates to be paid upon the Pier, the Borough Valuers shall have regard only to the actual value of Pier to be deemed within the Borough of Durban for purposes of certain Municipal Laws and Bye-laws.

Act 11, 1900. the materials of the Pier and the labour of constructing the Pier, with a due allowance for depreciation from time to time.

Right of Corporation to carry water pipes along Pier.

6. The Town Council of the Borough of Durban shall have the right, free of any charge, to place and maintain two pipes along the Pier, not exceeding twelve inches in diameter each, for the purpose of obtaining a supply of sea water for the public baths in the town and other purposes.

Reservation of rights of Her Majesty and the Colonial Government in the Seashore and Admiralty Reserve.

7. Nothing in this Act or in any contract made thereunder shall be deemed to affect or take away the rights of Her Majesty or of the Colonial Government of Natal in relation to the sea-shore and the strip of land known as the Admiralty Reserve, or to take away the private or public rights in the fore-shore: Provided that so far as any buildings, erections, enclosures, or other works, contemplated by this Act, in so far as they shall have been erected in accordance with a contract entered into by the Colonial Government under the authority of this Act, and in so far as they do not interfere with the reasonable use of the said sea-shore or fore-shore, or Admiralty Reserve, for purposes of free passage from one place to another with or without vehicles or animals, or with the enjoyment of the rights of the Crown and of the public and owners of adjoining properties to the use of the shore or reserve on both sides of such works, such buildings, erections, enclosures, or other works, shall not be deemed to infringe or injuriously affect any such rights of the Crown or of the public or others as aforesaid: but provided also that in the event of any such buildings, erections, enclosures, for (a) other works being removed, destroyed, or injured by the orders of Her Majesty's Imperial or Colonial Governments for any purpose of public defence, or for other public purposes, no payment or compensation shall be due or claimable in respect of any such removal, destruction, or injury.

Rights of Robert Dixon Sykes or Company to cease on failure to conclude agreement or fulfil conditions thereof.

8. Should the said Robert Dixon Sykes, or any Joint Stock Company as aforesaid, fail, within the period of one year from the taking effect of this Act, to conclude an agreement with the said Colonial Government and the Town Council of the Borough of Durban, or, having concluded such agreement as is contemplated by this Act, shall fail within the time limited by such agreement to construct such Sea Pier as is by this Act contemplated, then, and in any such case, all rights (if any) of the said Robert Dixon Sykes, or of any Joint Stock Company as aforesaid, acquired under this Act shall *ipso facto* cease and determine, and this Act shall, anything herein contained to the contrary notwithstanding, be deemed to be and shall be an authority to the

(a) The word "for" is probably a misprint for "or," but the whole section is badly constructed and the meaning obscure.

said Colonial Government and the Town Council of the Borough of Durban to contract for the erection of such Sea Pier with any other person or with any other joint stock company in the same manner, and as if such other person or joint stock company had been actually named herein. **Act 11, 1900.**

9. This Act may be known as the "Durban Pier Act of 1900." **Short title.**

Act No. 22, 1901.

"To enable the Town Council of the Borough of Durban to impose licenses for vehicles used within the limits of the said Borough."

[19th August, 1901.]

WHEREAS "The Durban Tolls Law of 1880" expired by effluxion of time on the 25th day of March, 1901, and it is necessary to make provision for the imposition of licenses on vehicles belonging to persons resident or carrying on business within the Borough of Durban, in lieu of the provisions in such Law contained :

BE IT THEREFORE ENACTED, by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. The Town Council of the Borough of Durban shall be and they are hereby authorised and empowered to grant and issue licenses, upon such terms as to the said Town Council shall appear proper, to all persons resident, or carrying on business in the Borough of Durban, who shall within the limits of the Borough, use or employ vehicles of any kind, drawn or propelled by animal or other power, whether for hire or for trade or private convenience, and to charge for such licenses for each period the several sums mentioned as set forth in the Schedule annexed hereto : Provided that the word "resident" in this clause and the next succeeding clause shall be construed to mean a person who has had his or her usual place or (a) abode in the Borough of Durban for a period of four months, but the said Town Council shall not require any license for carriages kept only for the private use of persons not resident in the Borough, though having a place of business therein, and the word "carriage" shall mean a vehicle used for carrying persons as distinct from a vehicle used for transporting goods or merchandise or a vehicle used in any way for hire : Provided further

Licenses for vehicles used by persons resident or carrying on business in Durban Borough.

(a) This is probably a misprint for "place of abode."

Act 22, 1901. that the provisions of this Section shall not apply to or be enforceable against persons in respect of vehicles used or employed by them solely for the purpose of conveying their farm produce into the Borough of Durban.

Penalty for breach of this Act or By-laws thereunder.

2. Any person, persons, or firm, resident, or carrying on business within the Borough of Durban, who shall, after the expiry of one month from the promulgation of this Act, hire out, use, or employ, within the limits of the Borough any unlicensed vehicle, his, her, or their property, or under his, her, or their control, or who shall commit any breach of any condition of the license relating to such vehicle, shall be deemed guilty of a contravention of this Act, or any By-law framed hereunder.

By-laws for regulating traffic on roads, and for purposes of this Act.

3. The Town Council, subject to the regulations relating to By-laws contained in the Law No. 19 of 1872, shall be, and they hereby are, authorised and empowered to make, in terms of said Law, all necessary By-laws for regulating traffic on the roads of the said Borough, and such By-Laws as may be deemed necessary for the imposition and collection of licences, and generally for carrying out the objects of this Act, and to impose such (a) fine, not exceeding Ten Pounds Sterling, for the infringement and contravention of any such By-law.

Jurisdiction of Magistrate's Court in suits for recovery of license moneys, and in prosecutions.

4. All license moneys imposed by this Act may be sued for in the Court of the Magistrate for the Division of Durban, notwithstanding the defendant or party against whom any complaint shall be made shall reside or have his habitation or dwelling out of the Borough of Durban, any Law or Act to the contrary notwithstanding, and service of any summons issued out of the Court of the said Magistrate, such service being made in accordance with the rules of the said Court, shall be deemed and held to be good service, and the judgment pronounced by the said Magistrate shall be binding and effectual upon the said defendant, or party summoned as aforesaid. The provisions hereunder as to the residence and the service of summons, shall apply to offenders against this Act, or any By-laws framed hereunder.

Execution of judgment: imprisonment in default of payment.

5. In case any fine, penalty, or payment, ordered by any such Magistrate to be paid or made according to the provisions of this Act, and according to the intent and meaning of any By-law made hereunder, shall not be duly paid or made, it shall and may be lawful for the said Magistrate to levy the same by distress and sale of the goods and chattels of the party ordered to pay the same, and if there be no goods on which to make such distress and sale, then it shall and may be lawful for the

(a) There appears to be neither antecedent nor consequent to which the word "such" relates.

said Magistrate to commit such offender to the common goal of the Borough of Durban for any period not exceeding one month, unless such fine, penalty, or payment and costs be sooner made or paid.

Act 22, 1901.

6. In any action or suit which shall be brought for recovery of any sum of money to become due or payable by virtue of this Act, or in any action or suit, or other proceeding whatsoever hereunder, it shall be lawful for the said Town Council to sue and be sued by the style and description of "The Mayor and Councillors of the Borough of Durban," and the said sum of money may be sued for by the Town Clerk of the said Borough in their behalf, or by any person specially appointed by and on behalf of the Corporation: Provided always that the said Mayor and Councillors shall be reimbursed and paid out of the Corporation Funds all such costs, charges and expenses as they shall be put to and become chargeable with, by reason of bringing or defending any such action, suit, or other proceeding as aforesaid, and shall not be personally answerable or liable for the payment of the same or any part thereof, unless such action, suit, or other proceeding, as aforesaid, shall arise, or have arisen in consequence of their own wilful neglect or default.

Form in which suits may be brought.

Indemnity of Mayor and Councillors for costs.

7. Any prosecutions for contraventions of any By-law or By-laws referred to in this Act, shall be conducted in the same manner as in the case of By-laws under the "Municipal Corporation Law, 1872."

Mode of prosecution.

SCHEDULE.

Vehicles used for the purpose of hire or trade.

	Year.			Half-year.			Quarter-year.		
	£	s.	d.	£	s.	d.	£	s.	d.
Omnibus or Tramcar not exceeding	5	0	0	3	0	0	1	10	0
Trolley not exceeding	5	0	0	3	0	0	1	10	0
Wagon not exceeding	5	0	0	3	0	0	1	10	0
Cart not exceeding	2	10	0	1	10	0	0	15	0
'Ricksha not exceeding	1	0	0	0	15	0	0	7	6
Any other Vehicle (on four wheels) not exceeding	4	0	0	2	10	0	1	5	0
Any other Vehicle (on two wheels) not exceeding	2	10	0	1	10	0	0	15	0

Vehicles used for private use.

Carriages or Vehicles (four wheels) not exceeding	1	10	0	1	0	0	0	10	0
Carriages or Vehicles (two wheels), not being 'Rickshas, not exceeding	1	0	0	0	15	0	0	7	6

Provided that all licenses, irrespective of the date of issue, shall expire on the 31st December of every year.

Act No. 25, 1901.

“To increase the Borrowing Powers of the Town Council of the Borough of Durban.”

[19th August, 1901.]

WHEREAS it is expedient to increase the borrowing powers of the Borough of Durban for the extension of certain Municipal Works and for the purpose of providing for certain additional works and public improvements within the Borough :

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

Short title.

1. The short title of this Act shall be “The Durban Consolidated Stock Act, 1901.”

Loan authorised.

2. The Town Council of Durban are authorised to borrow sums up to, but not exceeding, a total sum of Five Hundred Thousand Pounds (£500,000) Sterling, to be used for the purposes and in the proportions set forth in the Schedule to this Act annexed.

Issue of Stock :
Charge upon
rents, rates,
and revenues
of Borough.

3. The said Town Council are authorized to issue, in the manner provided by Law No. 29 of 1888, new Consolidated Stock for the moneys borrowed under this Act. The Stock issued under this Act shall be deemed to be Consolidated Stock within the meaning of the said Law No. 29 of 1888, and shall be a charge upon and shall, with the interest thereon, be payable out of the rents, rates, and general revenue of the Borough, in the same way as if the stock issued under this Act had been issued under the said Law No. 29 of 1888.

Saving of
rights.

4. Nothing in this Act, and nothing done under the provisions of this Act, shall take away, abridge, or prejudicially affect any right or interest by way of priority or otherwise of any person in or to the rates, rents, or general revenue of the Borough.

SCHEDULE.

Act 25, 1901.

	£	s.	d.
Electric Tramways	120,000	0	0
Electric Lighting	75,000	0	0
Water Supply (a)	100,000	0	0
Bay Foreshore Reclamation ...	40,000	0	0
Suburban Sewerage	80,000	0	0
Proposed Hydraulic Power System (b)	20,000	0	0
Buildings.—New Police Station, Point, £5,000; Greyville and Mitchell Park, £3,000; and New Fire Engine House and Quarters, £7,000	15,000	0	0
Durban Home	5,000	0	0
Stores, &c., Brook Street ...	10,000	0	0
	<hr/>	30,000	0 0
Milne's, Central and other Drains		35,000	0 0
		<hr/>	<hr/>
Total	£500,000	0	0

Act No. 15, 1903.

“To increase the Borrowing Powers of the Town Council of the Borough of Durban.”

[17th August, 1903.]

WHEREAS it is necessary to increase the Borrowing Powers of the Borough of Durban for the purpose of enabling the Town Council thereof to pay the purchase price of the undertaking, plant, business, and rights of the Natal Telephone Company, Limited, acquired by the said Town Council under the provisions of “The Durban Telephone Act,” and for the further purpose of properly equipping the said undertaking with new appliances, reconstructing old lines, and providing for future extensions and contingencies, to meet the requirements of present subscribers and other persons desirous of being connected with the Telephone System:

BE IT THEREFORE ENACTED by the King's Most Excellent

(a) This item now reads “£120,000.” See note (b).

(b) This item is expunged by Act 31, 1904, post, and the amount transferred to item “Water Supply,” *suprà*.

Act 15, 1903. Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

Short Title. 1. The short title of this Act shall be “The Durban Consolidated Stock Act of 1903.”

Authority for Loan. 2. The Town Council of Durban are authorised to borrow a sum not exceeding One Hundred Thousand Pounds (£100,000) Sterling to be used in paying the purchase price of the undertaking, plant, business and rights, as a going concern, of the Natal Telephone Company, Limited, acquired by the said Town Council under the provisions of “The Durban Telephone Act” (No. 31, 1897), and to provide for necessary works connected therewith, in accordance with the amount estimated in the Schedule annexed to this Act.

Consolidated Stock. 3. The said Town Council are hereby authorised to issue in manner provided by Law No. 29 of 1888, new Consolidated Stock for the moneys borrowed under this Act, and the Stock issued under this Act shall be deemed to be Consolidated Stock within the meaning of the said Law No. 29 of 1888, and shall be a charge upon, and shall, with the interest thereon, be payable out of the rents, rates, and general revenue of the Borough, in the same way as if the Stock issued under this Act had been issued under the said Law No. 29 of 1888.

Saving of existing Securities. 4. Nothing in this Act, and nothing done under the provisions of this Act, shall take away, abridge, or prejudicially affect any right or interest, by way of priority or otherwise, of any persons in or to the rates, rents, and general revenue of the Borough.

SCHEDULE.

Purchase price of the Natal Telephone Company's undertaking	... ..	£22,274	9	7
Estimated Cost of new equipment complete, the re-construction of old lines, future extensions, and contingencies	... ..	77,725	10	5
		<hr/>		
		£100,000	0	0
		<hr/>		

Act No. 31, 1904.

“ To increase the Borrowing Powers of the Town Council of the Borough of Durban.”

[3rd August, 1904.]

WHEREAS it is expedient to increase the borrowing powers of the Borough of Durban for the carrying out of certain Municipal Works, and providing funds for works already carried out and others to be carried out under Public Improvement Account :

AND WHEREAS it is desirable to authorise the said Town Council to transfer the amount of £20,000 set out in the Schedule to “ The Durban Consolidated Stock Act, 1901 ” (No. 25, 1901), against the item “ Proposed Hydraulic Power System ” to the item “ Water Supply £100,000 ” in the same Schedule, the proposed hydraulic power system having been abandoned in favour of Electricity :

BE IT THEREFORE ENACTED by the King’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. The short title of this Act shall be “ The Durban Consolidated Stock Act, 1904.” Short title.

2. The Town Council of the Borough of Durban are authorised to borrow sums up to, but not exceeding, a total sum of Nine Hundred Thousand Pounds (£900,000) Sterling, to be used for the purposes set forth in the Schedule to this Act annexed. Loan authorised.

3. The said Town Council are authorised to issue in the manner provided by Law No. 29 of 1888, new Consolidated Stock for the money borrowed under this Act. The Stock issued under this Act shall be deemed to be Consolidated Stock within the meaning of the said Law No. 29 of 1888, and shall be a charge upon and shall, with the interest thereon, be payable out of the rents, rates, and general revenue of the Borough in the same way as if the stock issued under this Act had been issued under the said Law No. 29 of 1888. Issue of stock. Charge upon rents, rates, and revenues of Borough.

4. Nothing in this Act, and nothing done under the provisions of this Act, shall take away, abridge, or prejudicially affect any right or interest by way of priority or otherwise of any person in or to the rates, rents, or general revenue of the Borough. Saving of rights.

5. The Schedule to “ The Durban Consolidated Stock Act, 1901,” is hereby amended as follows :—The item “ Proposed Amendment of Schedule to Act 25, 1901.

Act 31, 1904. Hydraulic Power System £20,000" is expunged, and the said amount of £20,000 transferred to item "Water Supply, £100,000," and from and after the passing of this Act the figures £120,000 shall be deemed to be substituted for the figures £100,000 occurring in the Schedule to the said "Durban Consolidated Stock Act, 1901," against the item "Water Supply."

SCHEDULE.

	£
Public Improvement Account	200,000
Storm-water Drainage	100,000
Sewerage	50,000
Town Hall Buildings, including, Library, Museum, Art Gallery, and Municipal Offices	200,000
Tramway Extensions	50,000
Electric Department	150,000
Waterworks	150,000
	£900,000

Act No. 36, 1904.

"To give effect to a certain agreement made between the Corporation of Durban and the Government of Natal, bearing date the 14th day of April, 1904, in so far as it relates to the transfer or sale to the Government of certain lands adjacent to the Bay of Durban and to the renunciation of certain rights and privileges under the Durban Bay Embankment Act of 1895 and otherwise."

[13th August, 1904.]

WHEREAS by an agreement bearing date the Fourteenth day of April, 1904, made between the Mayor of Durban as representing the Mayor, Councillors, and Burgesses of the Borough of Durban (called the Corporation) of the one part, and the Minister of Lands and Works, as representing the Colonial Government of Natal (called the Government) of the other part, which agreement forms the Schedule of this Act, it was amongst other things agreed that the Corporation should re-transfer to the Government certain lands abutting on the Bay of Durban, together with the Admiralty Reserve running therewith, in extent approximately 282 acres, and to sell and transfer to the Government certain other adjacent lands in extent together 62 acres more or less, which lands are more particularly described

in the agreement and shown in the plan thereto annexed; all upon certain terms set forth in the agreement : **Act 36, 1904.**

AND WHEREAS by the said agreement the Corporation renounced and abandoned all the rights and privileges claimed under the Durban Bay Embankment Act of 1895 as well as the other rights and privileges in regard to the Bay of Natal or the foreshore thereof in any way held or enjoyed by the Corporation, so that thenceforth the Government should have and enjoy the full, free and absolute right to carry out such works and operations in, over and in connection with the said Bay and the Harbour of Natal as the Government might at any time think fit, but subject to certain reservations and conditions :

AND WHEREAS it is expedient to confer upon the Corporation all such powers and authority as may be necessary in the premises :

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. Notwithstanding anything contained in Section 76 of the Municipal Corporations Law of 1872, the Mayor of Durban, acting on behalf of the Mayor, Councillors and Burgesses of the Borough of Durban (in this Act called the Corporation), shall be deemed to have and to have had full power and authority to enter into the agreement forming the Schedule of this Act, and more especially to agree with the Colonial Government of Natal (in this Act called the Government), for the re-transfer and for the sale and transfer to the Government of the lands hereinbefore respectively referred to ; and the Corporation are hereby empowered to give transfer and conveyance of the said lands to the Government in pursuance of the said agreement.

Power of Mayor to make agreement and Corporation to transfer.

2. The following clause contained in the above recited agreement made between the Corporation and the Government, which is as follows :—

Ratification of clause.

“ The Corporation, subject to the reservations hereinafter contained, renounces and abandons all the rights and privileges claimed under the aforesaid Bay Embankment Act of 1895, as well as such other rights and privileges of, in, and to, or over the Bay of Natal or the foreshore thereof in any way held or enjoyed by the Corporation, so that henceforth the Government shall have and enjoy full, free and absolute right of carrying out such works and operations in, over, and in connection with the said Bay and the Harbour of Natal as the Government may at any time think fit,”

Act 36, 1904. is hereby confirmed and ratified so far as may be necessary in order that the same may have full force and effect notwithstanding anything contained in the Durban Bay Embankment Act of 1895, or in any other Law or Act, and the Government shall have full power and authority to exercise the rights conferred by the said agreement, and to carry out without hindrance the works therein referred to.

The said Act of 1895, and any Acts amending the same, are hereby amended in so far as they relate to the rights and privileges referred to in the said agreement.

Reservations or conditions of agreement not to be invalidated.

3. Nothing in this Act shall be deemed to invalidate or prejudice any reservations or conditions contained in the aforesaid agreement.

Indemnity of Corporation and Government.

4. No person shall have any right of action against the Corporation or against the Government to enforce the carrying out of the provisions of the Durban Bay Embankment Act of 1895, or of any Acts amending the same, in so far as they may be affected by the above recited agreement, or any right of action against the Corporation or the Government by way of damages or otherwise in respect of the non-exercise or abandonment or cession to the Government of the rights and privileges referred to in the said clause, or by reason of the sale or transfer to the Government of the lands mentioned in the said agreement, or of the exercise of any of the rights thereby conferred upon the Government.

Reclamation and other works.

5. Clause 6 of Part No. 2 of the said agreement shall be taken to mean that, without waiting until the whole of the Congella lands shall have been fully equipped with wharfage and in full active use, Parliament may decide that the same will not be sufficient for the trade requirements of the Port, and may empower the Government to proceed with the reclamation and other works immediately in front of the Victoria Embankment.

Short Title.

6. This Act may be known as the "Harbour Lands Act, 1904."

Schedule.

SCHEDULE.

AN AGREEMENT

Between the Worshipful the Mayor of Durban as representing the Mayor, Councillors and Burgesses of the Borough of Durban, hereinafter referred to as the Corporation of the one part, and the Honourable Joseph Baynes, in his capacity as Minister of Lands and Works, and as such representing the Colonial Government of Natal, hereinafter referred to as the Government, of the other part, relative to certain lands at and about the foreshore of the Bay of Durban, between Cato's Creek and the Umbilo River.

WHEREAS on the 19th day of February, 1895, the Government did grant and transfer to the Corporation certain lands which originally belonged to the Government, situated between Cato's Creek and the Umbilo River, in extent 396 acres 12.62 perches, more or less, and bounded on the Southward and Eastward by the Bay of Natal, and Northward and Westward by the Borough and Borough Lands of Durban, including the lands theretofore known as the Admiralty Reserve:

Act 36, 1904.
Schedule.

AND WHEREAS under and by virtue of the "Durban Bay Embankment Act of 1895" the Corporation acquired certain rights and privileges which are fully set forth in Sections 2, 3, and 4 of the said Act, viz. :—

2. (a) To make a wall to the height of not less than two feet above the level of high water within the new Bay Boundary Line as fixed by the Town Council and the Natal Harbour Board in terms of Law 42, 1888.
- (b) To fill up the area on the landward side of the wall with spoil removed from the Bay of Natal, such filling up to be concurrent as near as may be with the construction of the said wall.
- (c) To remove spoil from the Bay of Natal for the purpose of filling up any other low-lying areas within the Borough of Durban.
- (d) To continue from Addington the canal now in course of construction by the Natal Government.
3. To construct a wharf at any point or points within the Boundary Line, provided that no such wharf should be constructed between the Southern Boundary of Albert Park and Cato's Creek.
4. To make by-laws and regulations, passed in the manner provided by Law 19 of 1872, regulating the use of the Bay Embankment and the charging of dues on goods landed thereon and shipped therefrom.

AND WHEREAS the Corporation has erected between Cato's Creek and Albert Park a wall which is now known as the "Victoria Embankment," with roadways thereon, but has not otherwise exercised any of the other rights and privileges above referred to:

AND WHEREAS it is necessary and for the public good and benefit that the Harbour of Durban should be considerably extended and improved, and the Government is about to undertake the necessary works and operations for that purpose:

AND WHEREAS such works and operations render it necessary

Act 36, 1904. that the Government should become re-possessed of most of the lands transferred to the Corporation by the said Deed of 19th February, 1895, and that the Corporation should give up the unexercised rights and privileges above referred to :

Schedule.

AND WHEREAS the Government also requires certain other lands belonging to the Corporation :

AND WHEREAS the parties hereto have come to a mutual understanding in the premises, and have agreed upon the terms and conditions subject to which the requirements of the Government are to be fully met and satisfied, which terms and conditions the parties are desirous should be reduced to writing :

Now THEREFORE these presents witness :—

PART NO. 1,

Which has special reference to certain lands at and about the foreshore of the Bay of Durban, between Albert Park and the Umbilo River.

1. The Corporation agrees and binds itself :

First:—To re-transfer to the Government as its own sole property all the lands coloured green and burnt sienna on the Plan annexed hereto, marked "A," measuring Two Hundred and Eighty Two acres, more or less, being the Lots marked "A1," "A2," "A3," "B1," on the said Plan, inclusive of the Admiralty Reserve so far as it runs with them, such lands being bounded on the south-east and east by the Bay of Natal, and on the west and north-west by Town Lands :

The said Lands, with the exception of Lot B1, shall be transferred free of charge, and as to B1, which is bounded on the south-east by the Bay of Natal, on the north-west by the one-hundred-foot road which forms the south-east boundary of the Albert Park and the Town Lands marked "C1," and on the west by Lot A1, the Government shall pay to the Corporation such sum not exceeding Seven Thousand Pounds sterling (£7,000) in cash immediately on transfer, as may represent the amount expended by the Corporation in improving the said lands, such payment to be the sole consideration for the said transfer.

Second:—To sell and transfer to the Government those pieces of land marked "C1," "C2," and "C3" on the said Plan "A," and therein fully described, each in extent respectively as follows :—

Lot "C1," twenty-nine acres ;

Lot "C2," sixteen acres ;

Lot "C3" seventeen acres ;

all more or less ; and being bounded respectively as follows :— **Act 36, 1904.**

Lot "C1," to the north-west by the Natal Government Railway, to the south-east by Lots marked respectively "B1" and "A1," and on the east by the one-hundred-foot road abutting on the western boundary of the Albert Park :

Lot "C2," to the north-west by the Natal Government Railway, to the south-east and east by Lot "A1," and to the south by Lot "A2."

Lot "C3," to the west and north-west by the main Umbilo Road and the Natal Government Railway, to the south and south-west by the Umbilo River, and to the east and north-east by Lots "A3" and "A2."

The price of the said lands to be the sum of One Thousand Pounds (£1,000) per acre, and the date of Sale shall be deemed to be the date of ratification of this Agreement by Parliament.

2. The Government agrees and binds itself to raise the whole of the low-lying lands coloured yellow on the said Plan, measuring one hundred and sixty-three acres, more or less, and the land coloured burnt sienna and marked "B2" and "B3" respectively, on the said Plan, containing thirty-six and seven acres respectively more or less, all lying to the north-west of the Natal Government Railway. The north-west boundary of the low-lying land to be raised is the contour line shown on the said Plan eighteen feet above the level of low water ; and the level of the land so raised when completed shall not be more than eighteen feet and not less than fourteen feet above the level of low water.

The cost of raising the said low-lying land shall be borne by the Corporation ; the Government agreeing to carry out the work of such raising of the land at cost price ; but the amount payable therefor by the Corporation shall not exceed ten pence per cubic yard. The extent of such reclamation to be limited to 1,500,000 cubic yards.

The reclamation of the said low-lying land by the Government shall proceed in continuity with the construction or extension of any wharf.

3. On the transfer to the Government of the unalienated Town Lands, Lots "C1," "C2," and "C3," the money due to the Corporation in respect thereof shall remain as an outstanding account until the whole of the works herein referred to of Part I. have been completed. A full and detailed account of the cost of the reclamation of the low-lying lands shall be kept by the Government, and a monthly statement thereof shall be rendered

Act 36, 1904. to the Corporation. Such statement as agreed upon by the parties hereto shall be certified as correct by the Corporation within fifteen days after the same shall have been rendered, and shall be final and conclusive except as to any errors and omissions as may be found therein prior to the final settlement hereinafter referred to.

Interest at the rate of four per centum per annum shall be debited from month to month in account current between the parties, such interest commencing upon the transfer of the Lots referred to.

For such monies as may finally become due to the Government by the Corporation the Corporation shall issue to the Government its own debenture bonds, each for the sum of One Hundred Pounds, bearing interest at the rate of four per centum per annum, payable half-yearly at the Natal Bank, Pietermaritzburg, redeemable at the same place fifty years after date or at such earlier date as may be agreed upon. The first of such debentures shall be issued when any debt of the Government to the Corporation shall have been satisfied by any set-off as aforesaid, and after the final completion of the whole works and Part I. of this agreement.

If the balance remaining should be a debit against the Government, settlement shall be made by payment in cash to the Corporation.

PART No. 2,

Which has special reference to the Bay Foreshore lying between Cato's Creek and the Albert Park.

4. The Corporation, subject to the reservations hereinafter contained, renounces and abandons all the rights and privileges claimed under the aforesaid Bay Embankment Act of 1895, as well as such other rights and privileges of, in, and to, or over the Bay of Natal, or the foreshore thereof in any way held or enjoyed by the Corporation, so that henceforth the Government shall have and enjoy full, free and absolute right of carrying out such works and operations in, over, and in connection with the said Bay and the Harbour of Natal as the Government may at any time think fit.

5. The Government has the right to erect a passenger landing jetty at or near the foot of Gardiner Street on the said Embankment after the submission of plans and particulars to the Corporation. This provision is only temporary pending the exercise by Government of their rights and powers hereunder.

6. The reclamation of land and the works of Harbour improvement contemplated under this agreement shall be first

commenced and proceeded with on and in respect of the lands referred to in Part No. 1 of this Agreement, which are known as Congella Lands, and the Government undertakes that the reclamation and other works immediately in front of the Victoria Embankment, that is to say between the Albert Park and Cato's Creek, which may in the future become necessary, as part of the general scheme of Harbour improvements, shall not be commenced until such time as Parliament shall have decided that the whole of the said Congella Lands, after being fully equipped with wharfage and in full active use, will not be sufficient for the trade requirements of the Port. Act 36, 1904.

7. Before the commencement by the Government of the reclamation and other works in front of the Victoria Embankment they shall give to the Corporation ninety days' notice in writing of their intention so to do, and no such works shall be commenced until the expiration of the said notice. Prior to the commencement of the works in front of the Victoria Embankment no spoil shall be deposited by the Government between the said Embankment and the line of works known as the Hartley-Barry scheme.

8. The Victoria Embankment shall remain the sole property of the Corporation, and the southern boundary of such Embankment shall be the outer edge of the coping of the existing wall, shown by blue coloured line on Plan A, Part 2.

9. All land reclaimed by the Government southward of the boundary of the Victoria Embankment as described above will become the sole property of the Government; but the Government shall take upon itself all liabilities and penalties (if any) which may arise by reason of such reclamation or any other cause, and hold the Corporation harmless and indemnified in respect thereof. Provided always that nothing herein contained shall be deemed to prevent Parliament from exonerating Government from any liability in the premises.

10. By reason of the Government taking away the advantages and privileges now enjoyed by the Burgesses on the Victoria Embankment the wall built by the Corporation for the purpose of retaining such Embankment will be of no further practical value, and the Corporation having incurred an expenditure of approximately Eighty-Five Thousand Pounds (£85,000) and their income from the sale of Bay Foreshore lands having amounted to approximately Sixty-Five Thousand Pounds (£65,000), the Government shall re-imburse and pay to the Corporation the sum of Twenty Thousand Pounds sterling (£20,000) when the lands to the southward of the Victoria Embankment have been reclaimed. Provided always that in case the Government shall

Act 36, 1904. make provision for and maintain an open space or canal, between the said Embankment and the reclaimed land, of a width of 150 feet and a depth of two feet below low water mark, in order not to disturb the present drainage arrangements, such canal to be open at both ends, then and in such case the Corporation shall not require the payment of the said sum of Twenty Thousand Pounds sterling (£20,000). In the event of provision being made for such a canal, the Government shall be at liberty to erect or construct such bridges as they may deem necessary between the land so reclaimed and the Embankment, such bridges to be level with such Embankment.

11. The reclamation and works before referred to in Clause 10 are understood to be included in and form part of the undertaking known as the Hartley-Barry scheme.

12. At the ground level of all vacant reclaimed land between the proposed wharf and the Victoria Embankment the Government undertakes to turf or harden so as to prevent the drifting of sand or other spoil. The Government shall be relieved of this undertaking should the canal referred to in Clause 10 hereof be decided upon.

The whole of this Agreement, as described in Parts Nos. 1 and 2, is subject to the following conditions:—

13. All the lands to be transferred to the Government in terms hereof shall be and remain part of the Borough of Durban in exactly the same manner as the lands at the Point belonging to the Government, and the Corporation shall at all times have and exercise in reference thereto the same rights and powers as are at present or as may hereafter be held or enjoyed by them in reference to the said Point lands, more especially those of levying rates on private property, surface drainage, roads, and other servitudes or rights necessary for sewerage, waterworks, lighting, electric power, tramways, telephones, and other public purposes, excluding police control. These rights and powers are more fully detailed as follows:—

(a) The laying off of all roads and sub-Divisions of land which may be offered for sale or lease shall, as far as practicable, be the subject of mutual arrangement between the Government and the Corporation so that roads and arrangements generally shall be made to serve the public convenience in connection with the roads of the Borough.

(b) The Government shall harden, kerb and channel all new roads made either for their exclusive use or for general public purposes. In the event of such roads being contiguous to rateable property the

Corporation will thereafter take them over and maintain them. **Act 36, 1904.**

- (c) Should the Borough lands comprised in Part No. 1 of this Agreement be so developed as to necessitate the crossing of the Natal Government Railway by bridges, such bridges, not exceeding three in number, shall be provided at places to be mutually agreed upon and at the joint expense of the Government and the Corporation.
- (d) The Corporation reserves the right of surface drainage, and the Government undertakes to grant servitude over all roads and other lands where it is necessary to construct at the Corporation expense underground conduits for the purpose of taking off storm water drainage.
- (e) With reference to the future extension of the existing storm water drains now discharging into the Bay on the Victoria Embankment, the Government undertakes at its own expense to extend all the existing storm water culverts of sufficient capacity for the effectual drainage of the various drainage areas for the purpose of effectually conveying storm water to the satisfaction of the Borough Engineer to any new point or points of discharge to be decided upon by the Government. The Government shall, however, be relieved of this undertaking should the canal referred to in Clause 10 hereof be decided upon.
- (f) The Corporation reserves all rights and powers under their Acts for sewerage, water, lighting, tramways and telephones.
- (g) The Corporation reserves the right to supply under existing powers and obligations, electric light and power, telephones, and tramway services, as now supplied to other parts of the Borough, to all rateable properties and Government lands comprised in Parts Nos. 1 and 2 of this Agreement.
- (h) All lands comprised in Parts Nos. 1 and 2 shall be regarded as part and parcel of the Borough, and, in so far as any portions occupied by other than Government Departments are concerned, shall be liable to rates and all the other provisions of the Municipal Acts.

14. The transfer of the said lands described in Part No. 1 to the Government and to the Corporation respectively, and all surveys in reference thereto, shall be at the cost of the Government.

Act 36, 1904.

15. The said reclamation referred to in Part No. 1, and the extension of storm water drains referred to in Section E of Clause 17, Part 2, shall be effected according to the requirements of the Corporation, whose Engineer shall at all times have free access to the lands being reclaimed and works above referred to, and shall be supplied with all information he may reasonably desire in reference to the said operations.

16. It is hereby agreed that the operations comprised in Part No. 1 shall be commenced within five years of the date of signing this Agreement, and the work of reclamation of land and construction of wharfage reasonably continued, subject to the voting of supplies therefor by Parliament.

17. In the event of failure on the part of the Government to so commence the said works within the aforesaid period of five years, the said lands to remain or again to become the property of the Corporation, according to whether such lands shall or shall not have been previously transferred to the Government.

18. Any question which may arise between the Corporation and the Government with reference to any of the matters herein contained or in any way referring thereto, save and except the question of reclamation of Part No. 2 and referred to in Clause No. 10, shall be referred to and settled by Arbitration in the usual way, the provisions of the Arbitration Act, 1898, being for that purpose incorporated with these presents.

19. The Government undertakes to introduce into Parliament any legislation which may be necessary in order to give effect to this Agreement, and the Corporation undertakes to loyally support the same in so far as may be necessary.

In witness whereof the Mayor has signed these Presents on behalf of the said Mayor, Councillors and Burgesses, and the Common Seal of the Said Mayor, Councillors, and Burgesses has been hereunto affixed, in pursuance of a Resolution of the Council, dated March 22nd, 1904, and the said Honourable Joseph Baynes, in his aforesaid capacity has hereunto set his hand this Fourteenth day of April, 1904, in the presence of the subscribing witnesses.

As Witnesses :

(Signed) WILLIAM COOLEY,
Town Clerk.



As Witness :
(Signed) G. T. PLOWMAN,
Secretary, Lands and Works.

(Signed) J. ELLIS BROWN,
Mayor.

(Signed) JOSEPH BAYNES,
Minister of Lands and Works.

Act No. 23, 1905.

“To increase the powers of the Town Council of the Borough of Durban in respect of the Supply of Water.”

[24th July, 1905.]

WHEREAS it is expedient to grant power to the Town Council of the Borough of Durban to increase the supply of water to the Town of Durban, and to construct the necessary works to supply water to the owners of properties on the Farms Bellair, Sea View, Wentworth, Bluff Lots, Fynnland, and Bluff Lands, and other places on the routes of the pipe lines :

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. This Act may be cited as the “Durban Corporation Waterworks Act,” of 1905. Short Title.

2. The Lands Clauses Consolidation Law, 1872 (Law No. 16 of 1872), and all clauses and provisions thereof (save in so far as they shall be expressly varied or excepted by this Act) shall be incorporated with this Act. Incorporation of Law 16, 1872

3. The Town Council of the Borough of Durban may purchase or take lands or user of lands required for the purposes of the works and undertakings authorised by this Act. Authority to take lands.

4. The Town Council of the Borough of Durban are hereby empowered to construct a Reservoir or Reservoirs and all necessary works for the storage of water on the Farms Umlaas, Killarney, and Honig Krantz in the County of Pietermaritzburg. Reservoirs.

5. For the purpose of increasing the supply of water to the Borough of Durban the said Town Council are also further empowered to do all things necessary for the construction of tunnels, conduits, and for the laying of water mains through the Farms Cato Manor, Fenniscowles, Sea View, Bellair and Zekoe Valley, in the County of Durban, for the purpose of leading water from the Umlazi River and distributing such water in Durban, and with wagons, carts, and vehicles to have access at all times to the pipe route, reservoirs, filter beds, tanks, and other works for the purpose of construction, examination, or repair, or other purposes of the works, and to do all such further and other acts, matters and things, and to exercise such further powers as shall be necessary to carry out the objects of this Act, including entering into an agreement with the Government of Natal for the removal at the expense of the said Town Council of the Bridge over the Umlazi River from its present site to another Construction of works: Distribution of water.

Act 23, 1905. site to be agreed upon, and to divert the main road accordingly.

Supply of water to properties on farms "Bellair" and "Sea View."

6. The said Town Council are also authorised to supply water to owners of properties on the Farms Bellair and Sea View, and other places along the line of route of the said water pipes at a charge to be fixed in a tariff to be framed by the Town Council: Provided that the maximum charge for domestic or household purposes shall not exceed three shillings per one thousand gallons.

Drawing of water from Umlazi River and supply to Bluff Lands authorised.

7. The said Town Council are further empowered, for the purpose of supplying water to the Bluff Lands, to construct all works and do all things necessary for making reservoirs or filter beds and service tanks, and for laying water pipes for leading water from the Umlazi River through Clairmont Estate, AL or Dunn's Grant and Farm Wentworth, and the Estates or Farms of Bluff Lots, Fynnland, and Bluff Lands in the County of Durban, and with power to the said Town Council with wagons, carts, and vehicles to have access at all times to the pipe route, reservoirs, filter beds, tanks and other works for the purpose of construction, examination, or repair, or other purposes of the works, and to do all such further and other acts, matters and things, and to exercise such further powers as shall be necessary to carry out the objects of this Act.

Minimum flow of water.

8. In leading water from the Umlazi river under Sections 5 and 7 of this Act it shall be obligatory on the Town Council to allow a flow into the bed of the river at a point immediately below the intake on the farm Welbedaght of not less than 500,000 gallons per day for the use of riparian owners until the completion of the new Camperdown dam contemplated under this Act to the 100 feet contour line, from which date the flow of water below such point shall be not less than 1,250,000 gallons per day: Provided, however, that at no time shall the Town Council be compelled on any one day to allow a greater outflow of water than the river flow into the dam on such day.

Rights of Riparian owners not affected.

9. Nothing in this Act shall be deemed to affect the rights of riparian owners whose land is not either purchased or made the subject of compensation under this Act when taken compulsorily.

Town Council authorised to supply water.

10. The said Town Council are also authorised to supply water to owners of properties on the said Farms Wentworth, Bluff Lots, Fynnland, and Bluff Lands, and other places along the line of route of the said water pipes at a charge to be fixed in the tariff to be framed by the Town Council: Provided that the maximum charge for domestic or household purposes shall not exceed three shillings per one thousand gallons.

11. The respective routes of the water-pipes as aforesaid shall follow as near as may be the line laid down in plans filed with the Clerk of the Legislative Council and the Clerk of the Legislative Assembly and in the Borough Engineer's Office, Durban.

Act 23, 1905.

Routes of pipes.

12. The powers to make by-laws given to Town Councils under Law No. 19 of 1872, and any Law amending the same, are extended to the Town Council of the Borough of Durban for all the purposes of this Act, but such power is specially extended so as to enable the said Town Council to make by-laws:—

Town Council may make By-Laws.

- (a) To prevent the pollution of any water required or authorised to be used under this Act;
- (b) To prevent the obstruction of any person in the discharge of his duty in connection with the waterworks hereby authorised;
- (c) To prevent the doing of any act or thing likely to cause damage to the said waterworks or any portion thereof.

Any person convicted of any breach of such by-law shall be liable to a penalty for each offence not exceeding Ten Pounds (£10) Sterling, or, in default of payment, to imprisonment with or without hard labour for any period not exceeding one month. Any fine inflicted under the provisions of this Act, or any by-law framed hereunder, shall be payable into and form part of the revenue of the Borough of Durban. Any person charged with contravening any such by-law may be prosecuted in the Court of the Magistrate having jurisdiction by any officer appointed for that purpose by the Town Council of the said Borough.

Penalties.

13. The said Town Council may regulate and control the mode of supplying water under this Act on to private property, and may frame a tariff of special charges for any special consumption of water other than for domestic or household uses.

Regulation and control of water supply.

14. The Town Council by its proper officers shall have the right of access into private houses or on to private lands for the purpose of inspecting pipes, meters, and cisterns: Provided no such right shall be exercised against the wish of a householder, except between the hours of 9 o'clock in the forenoon and 1 o'clock in the afternoon and then only in pursuance of written or printed notice, given not less than twenty-four, nor more than forty-eight hours before the inspection.

Entry for purposes of inspection.

15. If the taking, impounding, diversion, appropriation or conveyance of water under the authority of this Act shall deprive any person of any water or right of water which he may at the time of such taking, impounding, diversion, appropriation or conveyance of water possess, or be entitled to possess, and

Existing water rights—compensation.

Act 23, 1905. shall thereby cause damage to such person or his property, such person shall be entitled to recompense or compensation, to be settled in case of differences as if the diversion of water constituted a damage to land within the meaning of the 65th Section of the Lands Clauses Consolidation Law, 1872.

Offences. 16. If any person shall pollute any water led from the Umlazi River under the authority of this Act, or shall obstruct any person in discharge of his duty in connection with the waterworks hereby authorised, or shall mischievously do any damage to property connected with the waterworks, such person shall, on conviction thereof before the Magistrate having jurisdiction, be liable to a penalty, for each offence, not exceeding Ten Pounds (£10) Sterling, to be paid to the Borough Fund, or in default of payment to imprisonment with or without hard labour for a period not exceeding one month, and any person charged with contravening this Act may be prosecuted by any officer appointed in that behalf by the Town Council of the Borough of Durban.

Water Rate. 17. In so far as consumers of water within the Borough of Durban are concerned, no person shall be entitled to dispute the water rate or any act of the Town Council, or its officers, authorised by Law No. 42 of 1884, on the mere ground that the water in respect of which such rate shall be made shall in fact be brought elsewhere than from the Umbilo River, or otherwise than under the said Law No. 42 of 1884.

Act No. 37, 1905.

“To amend and consolidate the Laws relating to Tramways within the Borough of Durban.”

[26th August, 1905.]

WHEREAS under the authority contained in the provisions of Law No. 23 of 1891 the Mayor and Councillors of the Borough of Durban have constructed and worked Tramways in certain parts of the Town of Durban and the Suburbs thereof :

AND WHEREAS under and by virtue of the authority conferred by Section 20 of Law No. 19 of 1880, and Section 22 of Law No. 18 of 1885, and Act No. 12 of 1899, the said Mayor and Town Councillors acquired the undertakings held by the Durban Borough Tramways Company, Limited, under the said Laws Nos. 19 of 1880 and 18 of 1885, as amended by Law No. 16 of 1892, and have since worked the same, together with their own undertaking under Law No. 23 of 1891 as a joint concern :

AND WHEREAS under the said Act No. 12 of 1899 the said

Town Council were empowered to provide for the equipment of all existing lines of Tramway in the Borough belonging to them and future extensions thereof with electric traction, and for the generation and supply of electricity for working such tramways and as a motive power for other purposes, and under such authority the existing lines in the Borough have been equipped with electric traction : **Act 37, 1905.**

AND WHEREAS many of the provisions in the Laws of the Durban Borough Tramways Company, Limited, are not applicable to the undertaking as owned by the Municipality of Durban, and it has further been found that there are differences between the provisions of the said Company's laws and the "Town Council Tramways Law" (No. 23 of 1891) which give rise to anomalies, and render the working of the combined undertakings as one concern difficult and complicated, and it is therefore desirable to consolidate the various Laws and amend the same where necessary to make them consistent and conducive to the proper working of the tramways as a whole under the Municipality of Durban.

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Natal, as follows :—

1. The following Laws and Acts shall be and the same are hereby repealed, that is to say :— **Repeals.**

Law No. 19, 1880, "Durban Tramways Law."

Law No. 18, 1885, "Suburban Tramways Law."

Law No. 23, 1891, "Town Council Tramways Law."

Law No. 16, 1892, "Durban Borough Tramways Amendment Law of 1892."

Act No. 12, 1899.

Provided that anything done or suffered before the commencement of this Act under any enactment repealed by this Act, or any contract or obligation entered into or any right acquired, or any liability, punishment, or other consequence incurred, or any proceeding in respect thereof before the commencement of this Act shall not be affected by the repeal of any Law or Act affected by this Act, and all proceedings which may have been commenced under the repealed Laws or Act before the operation hereof may be continued and completed under such Laws and Act. **Proviso.**

2. This Act may be cited as the "Durban Municipal Tramways Laws Consolidation Act, 1905." **Short title.**

3. The Lands Clauses Consolidation Law, No. 16 of 1872, except when expressly varied by this Act, shall be incorporated with this Act, and for the purposes of such incorporation this **Incorporation of Lands Clauses Consolidation Law, 1872.**

Act 37, 1905. Act shall be deemed the Special Law contemplated by the Lands Clauses Consolidation Law, No. 16, of 1872.

4. For the purposes of this Act the terms hereinafter mentioned shall have the meanings hereinafter assigned to them, that is to say:—

Definitions.

The "Town Council" shall mean the Town Council of the Borough of Durban.

"Borough" shall mean the Borough of Durban.

"Roadway," "Street," "Road," shall mean the whole space reserved as such roadway, street or road, and not only the hardened or formed portion of such roadway, street, or road.

Town Council authorised to make and use tramways.

5. The Town Council are hereby authorised to make, work, maintain, and use tramways along all or any of the streets or roads in the Borough, and to repair, renew, alter, and improve the same, and to open and break up such roads, streets, drains or the like, to erect all such buildings, sidings, crossings, or other works, and to purchase, hire, or otherwise legally acquire all such lands and buildings as may from time to time be found necessary for any of the aforesaid purposes.

Town Council authorised to make contracts, &c.

6. The Town Council are hereby authorised to enter into agreements for running powers over their lines, and also to agree with any person or Company for the construction and working by the Town Council or by such person or company of any new lines hereafter to be made or any section or sections thereof: Provided that any such agreement for the working of any such new lines for a period exceeding seven years shall first be submitted for the approval of the Governor in Council.

Town Council may sublet tramways.

7. The Town Council may, and they are hereby empowered to sub-let the Tramways authorised under this Act or any section thereof to any company, person, or persons, for a period not exceeding seven years; but with a right to give renewal, on terms to be agreed upon, within the last six months of each period of seven years, and in case of any such sub-letting all the rights, powers, authorities, obligations, and liabilities of the Town Council under this Act in respect of working of such Tramways and enforcement of the regulations made in connection therewith shall be transferred to, vested in, and may be exercised by any such Company, person or persons, subject, however, to any special agreement to be entered into between the parties.

Town Council may levy tolls and charges.

8. The Town Council may levy tolls and charges for the conveyance of passengers and parcels on such Tramways but such tolls and charges shall not exceed for passengers twopence a mile or fraction of a mile, and for parcels the rates specified in the Schedule to this Act annexed, without the sanction of the

Governor in Council. A list of tolls and charges authorised to be taken shall be exhibited in a place conspicuous to the passengers upon each of the carriages used on the Tramway. **Act 37, 1905.**

9. Any agreement in respect of such sub-letting of Tramways shall contain provisions with regard to the following matters:— **Provisions to be contained in agreement.**

- (a) The securing a regular and efficient tramway service.
- (b) The securing the safety of the public from personal injury.
- (c) The enforcement of the due performance of the obligations to be undertaken by the lessees by the imposition of penalties or otherwise.
- (d) The inspection of the tramways from time to time by some person duly appointed by the Town Council.
- (e) An indemnity to the Town Council against loss or damage.

10. The Tramways hereby authorised shall be laid and maintained in such manner that the uppermost surface of the rails shall be on a level with the surface of the road, and shall not be open for public traffic until the same have been inspected and certified to be fit for such traffic by an Engineer appointed by the Governor in Council. **Rails to be level with road surface.**

11. Where the carriage-way in or upon which any portion of the Tramway is proposed to be formed or laid down is crossed by any railway or tramway on the level, any work which the Town Council may be empowered to construct, and which affects or in anywise interferes with such railway or tramway, or the traffic thereon, shall be constructed and maintained under the superintendence (at the cost of the Town Council) and to the reasonable satisfaction of the Government, person, Corporation, or Company owning such railway or tramway, unless in the case of the original construction of the tramway after notice to be given by the Town Council seven days at least before the commencement of such work, such superintendence is refused or withheld. **Construction of level crossings over other lines.**

12. Passengers and parcels shall be conveyed on such Tramways, and the Town Council shall also have power, as common carriers, to convey goods and other materials over the said Tramways; and authority is also given to the Town Council to utilise the tramlines for the working of electric motor vans or similar apparatus for the purpose of street watering, or for the conveyance of stone or other material used in road making or other works, and also for the transporting of house, stable, and street refuse from any part of the Borough: Provided that the **Carrying powers.** **Street watering and other purposes.**

Act 37, 1905. transporting of such refuse shall be confined to the hours between 11 p.m. and 5 a.m.

Use of rails as a return for current.

13. The Town Council are further empowered to use the rails of the Tramways as a return for the electric current used for propelling the cars, subject to the regulations hereinafter provided for.

Authority for tramways extensions.

14. The Town Council are also authorised and empowered to construct the necessary works and provide the requisite plant and appliances for the equipment with electric traction of future extensions as well as existing lines of Tramways in the Borough of Durban, and also for the generation and supply of electricity for working such Tramways, and as a motive power for other purposes, subject to such regulations as may be made by the Governor in Council, as hereinafter provided.

Use of flange wheels.

15. The Town Council may use on their Tramways carriages with flange wheels, or wheels suitable only to run on the prescribed rails, and subject to the provisions of this Act, the Town Council shall have the exclusive use of the Tramways for carriages with flange wheels, or other wheels suitable only to run on the prescribed rails. The carriages used on the Tramways may be drawn by horses or other animals, or driven or propelled by steam, electricity, or other motive power. No carriage used on the Tramway shall extend beyond the outer edges of the wheels of such carriage more than twenty-two inches on each side.

Motive power.

Projection of carriage over wheels.

Governor in Council may make regulations.

16. The Governor in Council may from time to time make such regulations, in accordance with the regulations for the time being of the Board of Trade of the United Kingdom applicable to local authorities or municipalities, subject to such modifications as he may think expedient, but in no case more stringent than the regulations in force by the Board of Trade for securing the safety of the public from personal injury, or from fire or otherwise, and for minimising as far as may be reasonable any interference with the electric wires, lines and apparatus of the Government, or any other authority, company, or person, and may from time to time rescind, alter, or repeal such regulations. Any regulations so made or amended by the Governor in Council in pursuance of this section shall have the like effect in every respect as if they had been included in this Act, and shall be published twice in the *Natal Government Gazette*, and twice in two daily newspapers published in the Borough of Durban. Notice in writing shall be given by the Government to the Town Council of Durban of any such regulations, or of any repeal or alteration thereof at least a month before the regulation, repeal, or alteration is made by the Governor in Council.

17. The Town Council shall take all reasonable precautions in constructing, laying down and placing their electric lines and other works of all descriptions, and in working their undertaking, so as not injuriously to affect, whether by induction or otherwise, the working of any wire or line from time to time used for the purpose of telegraphic, telephonic, or electric signalling communication, or any other purpose, or the currents in such wire or line, and before commencing to lay down such a line, or to do any other work for the supply of electricity, whereby any electric or other line of the Government, or any authority, company, or person may be injuriously affected, shall give such reasonable written notice to the General Manager of Telegraphs, or such authority, company, or person as the case may be, as may be prescribed by regulations framed under the provisions of Section 7 of this Act, and such notice shall specify the course and nature of the work, and be accompanied by such maps and plans as may be necessary. The Town Council and their agents shall also conform with such reasonable requirements, either general or special, as may from time to time be made by the General Manager of Telegraphs for the purpose of preventing any electric lines of the Natal Government being injuriously affected by the said work, and if the Town Council or their agents fail to give the appointed notice, or to comply with the reasonable requirements, either general or special, of the General Manager of Telegraphs, they shall be liable to a penalty not exceeding Twenty Pounds (£20) if the telegraphic communication is interrupted thereby, and not exceeding Five Pounds (£5) for every day such failure continues.

Act 37, 1905.

Prevention of injury to telegraph and other wires.

18. In the event of it being necessary in connection with the construction of any line, or the execution of any work by the Town Council, to make an alteration in any telegraph, or other electric line of the Natal Government, it shall be lawful for the General Manager of Telegraphs, by himself or his agents, to make such alterations or to consent to the work being performed by the Town Council, under the supervision and to the satisfaction of himself or his agents, and the Town Council shall, at the discretion of the Minister in charge of the Telegraph Department, be called upon to pay the whole or any portion of the expenses incurred in connection therewith, or incidental thereto.

Liability for cost of alteration of Government telegraphs.

19. If any telegraph, telephone, or other line of electrical communication owned by the Government of Natal, is in any way injuriously affected by the construction by the Town Council of their electric lines and works, or by the working of the undertaking of the Town Council, the Town Council shall pay the expenses of all such alterations in, or additions to, such line or lines, as may be necessary to remedy such injurious

Liability for injurious affection of Government Telegraphs

Act 37, 1905.

affection. For the purpose of this section, a telegraph, telephone, or other line of electrical communication owned by the Natal Government shall be deemed to be injuriously affected by an act or work if telegraphic communication by means of such line is, whether through induction or otherwise, in any manner affected by such act or work, or by any use made of such work. In the event of any line of wire, or wires, being constructed in such a manner that such line of wire, or wires, will cross the trolley wires of any tramway, they shall cross at right angles, and be heavily insulated.

Injurious
affection of
ocean cables
subsidised by
Government.

20. If any ocean cable on the sea side of the boundary of the Borough of Durban, subsidised by the Government of Natal, is at any time in any way injuriously affected by the construction by the Town Council of their electric lines and works, or by the working of the undertaking of the Town Council, the Town Council shall pay the expenses of all such alterations in or additions to such cable as may be necessary to remedy such injurious affection. For the purpose of this section a cable subsidised by the Natal Government shall be deemed to be injuriously affected by an act or work if telegraphic communication by means of such cable is, whether through induction or otherwise, in any manner affected by such act or work or by any use made of such work.

Liability for
injuries.

21. The Town Council shall be answerable for all accidents, damages, and injuries happening through their act or default, or through the act or default of any person in their employment by reason or in consequence of any of their works.

Damage by
electrolysis,
&c.

22. The Town Council shall undertake that, in the event of any electric leakage taking place and any damage being thereby caused at any time by electrolysis or otherwise, it will reimburse and make good to the owner or owners of any property so damaged all costs, damages, and expenses to which such owner or owners may be put by reason thereof.

Arbitration.

23. Any difference which may arise between the General Manager of Telegraphs and the Town Council, or their agents, with respect to any requirements so made, shall be determined by arbitration.

Saving of
rights of
Government.

24. Nothing in this Act shall take away or lessen any right or remedy of the Colonial Government or of the General Manager of Telegraphs, and all provisions contained in this Act in favour of the General Manager of Telegraphs shall be construed to be in addition to, and not in modification of, or substitution for, any such rights and remedies.

Saving of
power to open
or break up
roads, &c.

Nothing in this Act shall take away or abridge any power to open or break up any road along or across which any Tramway

is laid, or any other power vested in any other local body or authority for any of the purposes for which such authority is respectively constituted, or in any Company, body, or person for the purpose of laying down, repairing, altering, or removing any pipe for the supply of water or gas, or any tubes, wires, or apparatus for telegraphic or other purposes, but in the exercise of such power the Company, body, or person shall be subject to the following restrictions, that is to say:—

Act 37, 1905.

- (a) They shall cause as little detriment or inconvenience to the Town Council as circumstances admit.
- (b) Before they commence any work whereby the traffic on the Tramway will be interrupted, they shall, (except in cases of emergency, in which cases no notice shall be necessary) give to the Town Council notice of their intention to commence such work, specifying the time at which they will begin to do so, such notice to be given eighteen hours at least before the commencement of the work.
- (c) They shall not be liable to pay the Town Council any compensation for injury done to the Tramway by the execution of such work, or for loss of traffic occasioned thereby or for the reasonable exercise of the powers so vested in them as aforesaid.
- (d) Whenever for the purpose of enabling them to execute such work, the Company, body, or person as aforesaid shall so require, the Town Council shall either stop traffic on the tramway to which the notice shall refer, where it would otherwise interfere with such work, or shore up and secure the same at their own risk and cost during the execution of the work there: Provided, that such work shall always be completed by the Company, body, or person with all reasonable expedition.
- (e) Any Company, body, or person shall not execute such work so far as it immediately affects the Tramway, except under the superintendence of the Town Council, unless the Town Council refuse or neglect to give such superintendence at the time specified in the notice for the commencement of the work or discontinue the same during the progress of the work, and such Company, body, or person, shall execute such work at their own expense and to the reasonable satisfaction of the Town Council: Provided, that any additional expense imposed upon such Company, body, or

Act 37, 1935.

person, by reason of the existence of the Tramway in any road or place where any such mains, pipes, tubes, wires, or apparatus shall have been laid before the construction of such Tramway shall be borne by the Town Council.

Settlement of disputes between Town Council and other companies, &c.

25. If any difference arises between the Town Council on the one hand and any Gas or Water Company, or any Company, body, or person to whom any sewer, drain, tube, wires, or apparatus for telegraphic or other purposes may belong, or any other Company, on the other hand, with respect to any interference or control exercised or claimed to be exercised by them or him, or on their or his behalf, or by the Town Council by virtue of this Act in relation to any Tramway or work, or in relation to any work or proceeding of any body, company, or person, or with respect to the propriety of the mode of execution of any work relating to any Tramway, or with respect to the amount of any compensation to be made by or to the Town Council, or on the question whether any work is such as ought reasonably to satisfy the body, company, or person concerned, or with respect to any other subject or thing, regulated by or comprised in this Act, the matter in difference shall (unless otherwise specially provided by this Act) be settled by an engineer or other fit person nominated as referee by the Governor in Council on the application of either party, and the expense of the reference shall be borne and paid as the referee directs.

Town Council may make regulations.

26. The Town Council may make regulations for preventing the commission of any nuisance in or upon any carriage or in or against any premises belonging to them, and for regulating the travelling in or upon any carriage belonging to them, the stopping of carriages using the Tramway, the traffic on the road or street on which the Tramways are laid, and the system by which fares shall be levied on and paid by passengers travelling upon the Tramways, and in case of tickets the conditions on which they shall be issued; also with respect to the custody of parcels or other property left by passengers in cars, and preventing passengers from riding on footboards, or other parts of the car not provided with seating accommodation; and for better enforcing the observance of all or any of such regulations it shall be lawful for such Town Council to make By-laws for all or any of the aforesaid purposes, and from time to time repeal or alter such By-laws and make new By-laws, provided that such By-laws be not repugnant to the Laws of the Colony, and such By-laws shall be passed and promulgated in the same manner as is provided for By-laws under Law No. 19 of 1872, or any Act amending the same, and shall be capable of enforcement in the

By-laws.

same way as any other By-law duly passed by that authority. Any such By-law made by the Town Council may impose reasonable penalties for offences against the same not exceeding Forty Shillings (40s.) for each offence, with or without further penalties for continuing offences not exceeding for any continuing offence Ten Shillings (10s.) for every day during which the offence continues. All tolls, penalties, and charges under this Law, or under any By-law made in pursuance of this Law, may be proceeded for in the case of the Town Council in the same manner as is applicable to contraventions of ordinary Municipal By-laws.

Act 37, 1905.

Penalties.

27. If any person wilfully obstructs any person acting under the authority of the Town Council in the lawful exercise of their powers in setting out or making, forming, laying down, repairing, or renewing a Tramway, or wilfully defaces or destroys any mark made for the purpose of setting out the line of the Tramway, or wilfully damages or destroys any property of the Town Council, he shall for every such offence be liable to a penalty not exceeding Five Pounds (£5).

Penalty for obstruction, damages, &c.

28. If any person without lawful excuse (the proof whereof shall lie on him) wilfully does any of the following things, namely :—Interferes with, removes or alters any part of a Tramway, or of the works connected therewith, places or throws any stones, dirt, wood, refuse, or other material on any part of a Tramway, does, or causes to be done, anything in such manner as to obstruct any carriage using a Tramway, or to endanger the lives of persons therein or thereon, or knowingly aids or assists in the doing of any such thing, he shall for every such offence be liable (in addition to any proceedings by way of indictment or otherwise to which he may be subject) to a penalty not exceeding Five Pounds (£5).

Penalties for wilful interference or obstruction of tramways.

29. If any person travelling or having travelled in any carriage on any Tramway avoids or attempts to avoid payment of his fare, or if any person having paid his fare for a certain distance knowingly and wilfully proceeds in any such carriage beyond such distance, and does not pay the additional fare for the additional distance, or attempts to avoid payment thereof, or if any person knowingly and wilfully refuses or neglects on arriving at the point to which he has paid his fare to quit such carriage, every person shall for every such offence be liable to a penalty not exceeding Forty Shillings (40s).

Penalties for frauds practised by passengers.

30. It shall be lawful for any officer or servant of the Town Council, and all persons called by him to his assistance, to seize and detain any person discovered either in or after committing or attempting to commit any such offence as in the next preceding

Seizure and detention of offenders under section 29.

Act 37, 1905. section is mentioned, and whose name or residence is unknown to such officer or servant, until such person can be conveniently taken before a Magistrate, or until he be otherwise discharged by due course of law.

Dangerous goods.

31. No person shall be entitled to carry or to require to be carried on any Tramway any goods which may be of a dangerous or objectionable nature; and if any person send by any Tramway any such goods without distinctly marking their nature on the outside of the package containing the same, or otherwise giving notice in writing to the bookkeeper or other servant of the Town Council with whom the same are left at the time of such sending, he shall be liable to a penalty not exceeding Twenty Pounds (£20) for every such offence; and it shall be lawful for the Town Council to refuse to take any parcel that they may suspect to contain goods of a dangerous nature, or require the same to be opened to ascertain the fact.

Penalty for persons using carriages with flange wheels.

32. If any person use the Tramway or any part thereof with carriages having flange wheels or other wheels suitable only to run on the rails of such Tramway, such person shall for every such offence be liable to a penalty not exceeding Twenty Pounds (£20).

Reservation of power to widen, &c., roads, railways, or tramways.

33. Nothing in this Act shall take away or affect any power which the owner, commissioners, undertakers, or lessees of any railway or tramway may have by Law to widen, alter, divert, or improve any road, railway or tramway.

Reservation of public right to use of roads.

34. Nothing in this Act or in any By-law made under this Act shall take away or abridge the right of the public to pass along or across every or any part of any road along or across which any tramway is laid, whether on or off the Tramway, with carriages not having flange wheels, or wheels suitable only to be run on the rails of the Tramway.

SCHEDULE.

- (a) Any one parcel not exceeding 14 lbs. in weight, carried by any passenger, shall be free of charge, but for any additional parcels not exceeding 14 lbs. in weight the Town Council shall be entitled to charge sixpence for each such parcel.
- (b) Provided that the Town Council shall not be compelled to carry for hire in any passenger car any parcel of greater weight than 28 lbs.

Act No. 17, 1906.

“To empower the Government to grant a License to the Corporation of Durban to extend the Telephone system authorised by Act No. 31, 1897.”

[26th July, 1906.]

WHEREAS by the Durban Telephone Act of 1897, certain powers were given to the Natal Telephone Company, Limited, in respect to the construction and working of Telephones within the Borough of Durban :

AND WHEREAS in pursuance of the authority contained in the said Act the rights of the said Company have been acquired by the Municipal Corporation of Durban :

AND WHEREAS it is expedient to empower the Government to grant a license enabling the said Corporation to extend the advantages of the existing Telephone system to places in the vicinity of Durban :

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. Notwithstanding the provisions of the Telegraphs Act, 1901, it shall be lawful for the Governor in Council to grant a license to the Mayor, Councillors and Burgesses of the Borough of Durban (hereinafter called the Corporation) to extend the existing Telephone system, as established under the Durban Telephone Act, 1901, to such places as may from time to time be approved by the Postmaster-General.

Governor may grant license to extend telephone system.

The license shall contain such conditions as the Governor in Council may require to be inserted therein, and such conditions may from time to time be varied by the Governor in Council in such manner as may be agreed between the Government and the Corporation.

Conditions of license.

2. This Act shall not be deemed to authorise the Corporation to establish any telephone exchange or to construct any trunk lines outside the Borough of Durban, nor shall the Postmaster-General approve of the extension of the system to any place beyond a radius of eight miles measured in a direct line from the present site of the Durban Telephone Exchange ; Provided, however, that the Governor in Council may from time to time, upon special application being made by the Corporation, authorise the extension to some named place outside the aforesaid limit.

Restrictions on extension.

3. The Postmaster-General may, before approving of the extension of the telephone lines to any place, impose such further conditions as may be reasonable and proper in respect to the

P.M.G. may impose further conditions.

Act 17, 1906. route of the lines, the use of roads, and any matters relative to construction which may be necessary for protecting the rights of the Government or of the public.

Application of former Act.

4. Subject to the terms of this Act and to the conditions imposed thereunder, the authority, rights and obligations conferred and imposed by the Durban Telephone Act of 1897, shall, so far as they may be applicable, extend and be conferred and imposed upon the Corporation in respect to telephone lines constructed in pursuance of this Act.

Saving of rights of Government under Tele-
graphs Act,
1901.

5. Nothing in this Act shall be deemed to take away or affect the powers and privileges of the Government as declared by the Telegraphs Act, 1901, save so far as may be necessary for giving effect to the purposes expressed in this Act.

Act No. 27, 1906.

“ To amend in certain respects the Municipal Corporations Law No. 19 of 1872, and Act No. 22 of 1894, in so far as regards the Borough of Durban, and to grant extended powers to that Borough in respect of certain matters not provided for under the existing Municipal Laws.”

[13th August, 1906.]

WHEREAS it is expedient to grant to the Town Council of the Borough of Durban extended powers in respect of certain matters not provided for under the existing Municipal Laws, and for that purpose to amend in certain respects the Municipal Corporations Law No. 19 of 1872, and Act No. 22 of 1894, and to enact new provisions in regard to other matters :

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :

Application of Act.

1. This Act shall only apply to the Borough of Durban, and wherever the term “ Town Council ” is used throughout this Act it shall be deemed to apply to the Town Council of the Borough of Durban.

Powers to make by-laws.

2. The powers to make by-laws given to Town Councils under Law No. 19 of 1872 are extended to the Town Council of the Borough of Durban for all the purposes of this Act.

No land to be laid out with roads, streets, &c., unless plan first submitted and approved.

3. It shall not be lawful for any person to lay out or dispose of, or cause to be laid out or disposed of any land for building purposes on which it is proposed to open any road, street, lane, or alley, without first submitting a plan showing the proposed dispositions of such land, and setting forth the width and

direction of such road, street, lane, or alley, and a plan showing the proposed drainage of such land, and obtaining the approval thereto of the Town Council: Provided always that before granting such approval the Council may require that the said road shall be hardened, paved, kerbed and guttered. Any person who shall act in contravention of the provisions herein contained shall be liable to a penalty not exceeding Ten Pounds (£10) Sterling and a further penalty of Twenty Shillings (20s.) Sterling for every day while such default is continued. Act 27, 1906.

4. Section 19 of Act No. 22 of 1894 shall be amended to read as follows:—

Procedure with regard to plans for intended work.

Where a notice, plan or description of any work is required by any by-law made by the Town Council, to be laid before that authority, the Town Council shall, within fourteen days after the same has been delivered or sent to the Borough Engineer or other officer appointed for the purpose, signify in writing their approval or disapproval of the intended work, with the reasons for the disapproval, to the person proposing to execute the same, and if the work is commenced after such notice of disapproval, or before the expiration of such fourteen days, without such approval, or, if having been approved, the work shall be commenced or completed not in conformity with such plans, and is in any respect not in conformity with any by-law, the Town Council may cause so much of the work as has been executed to be pulled down or removed.

Where the Town Council incur expenses in or about the removal of any work executed contrary to any by-law, they may recover the amount of such expenses either from the person executing the works removed or from the person causing the works to be executed, at their discretion.

Removal of work executed contrary to by-laws.

Where the Town Council may, under this Section pull down or remove any work begun or executed in contravention of any by-law, or where the beginning or the execution of the work is an offence, in respect whereof the offender is liable under any by-law to a penalty, the existence of the work during its continuance in such a form and state as to be in contravention of the by-law shall be deemed to be a continuing offence, but a penalty shall not be incurred in respect thereof after the expiration of one year from the day when the offence was committed or the by-law was contravened.

5. The Town Council may consent, in writing, to the erection by any person of a verandah, signboard, or structure of a like character beyond the line of any street prescribed by them, and in any such case the said Town Council may annex to such consent, if they think fit, any conditions they may think proper,

Consent may be given to erection of certain structures beyond line of street.

Act 27, 1906. and where the Town Council have annexed conditions to such consent, and such person fails to fulfil any of such conditions he shall be liable to a penalty not exceeding Five Pounds (£5) Sterling, and to a further penalty not exceeding Twenty Shillings (20s.) Sterling for every week upon which any such condition continues to be unfulfilled after the day on which the first penalty is incurred.

Powers to
make by-laws.

6. In addition to the powers conferred by Section 18 of Act No. 22 of 1894, the Town Council may make by-laws with respect to the following matters, that is to say:—

- (1) The level, width, construction, and face line of new streets, and the provisions for the sewerage and drainage thereof.
- (2) The submission of plans of all new buildings proposed to be erected or of alterations to existing buildings within the Borough; and the fees to be paid to the Council in respect of such plans.
- (3) The giving of notice, the inspection by the Council, and the exercise of the Council's power to remove, alter, or pull down any work begun, or done in contravention of such by-laws.
- (4) The construction, stability, control and maintenance of hoardings and scaffolds, on or within fifteen feet of streets or thoroughfares, and for regulating the height thereof.
- (5) The alteration or repairing of buildings and the erection and removal of hoarding or scaffolding affecting traffic in any street, road or pathway.
- (6) The construction of temporary footways occasioned by such alterations, and the lighting thereof during the night.
- (7) The requiring, giving, and enforcing of security for any loss or damage caused by such hoarding or scaffolding, and for the maintenance and removal thereof.
- (8) The punishment for the breach of any Building By-law: Provided that such punishment shall not exceed the amount or term of imprisonment which by this Act may be appointed by the General By-laws, except in case of a continuing offence, in which case a penalty may be imposed not exceeding Two Pounds (£2) Sterling for every day while any default is continued.

Power to tax
trades, &c., by
annual
licenses.

7. The Council shall have the power to tax, by way of annual license, all trades, callings, and things enumerated in the Schedule of this Act, and to receive and pay into the Borough

Fund the sums accruing from such licenses: Provided that no license shall exceed the amounts set forth in the said Schedule. Power and authority are also hereby given to the Town Council to control or prohibit persons trading or carrying on business in open spaces of land or in passages, whether public or private. It shall be necessary for all such persons to obtain retail licenses in terms of this Act and of Act No. 18, 1897: Provided, however, that Section 7 of the said Act No. 18, 1897, shall not apply to such licenses. Act 27, 1906.

8. Irrespective of the date of issue, no license shall extend or be deemed to extend beyond the 31st day of December. Period of license.

9. It shall be lawful for the Council from time to time to make By-laws with respect to such licenses, and defining the nature thereof, and fixing the hours of business thereunder, and altering, increasing, or reducing the prices of such licenses. By-laws in respect of licenses.

10. The Town Council may make By-laws for the regulation of eating houses and public refreshment rooms and charge licenses therefor. Eating-houses

11. Any person applying for a license shall state the nature or description of the business proposed to be carried on, and the place or premises where the business to be authorised by such license is intended to be carried on, and shall be bound to satisfy the Town Council that the premises on which the applicant proposes to carry on the business are suitable for the purpose, whether as regards the situation or character of the building structurally or otherwise, and the Town Council may refuse to issue such license until satisfied of the suitability of the premises as aforesaid. Procedure for obtaining license.

Wholesale and retail licenses within the meaning of Act No. 18, 1897, or of any Act amending the same, shall be subject to the provisions of such Act, but shall not thereby be excluded from the provisions of this section.

12. The Council shall be the licensing authority for the purpose of controlling buildings used for public purposes, and no building shall be used for the purpose of public entertainments without a license from the licensing authority, who may impose such conditions and stipulations as they may deem necessary, either as regards such building itself, or the days and hours during which the same may be used. Buildings used for public purposes.

Such licensing authority may, under the hand of the Mayor or Deputy Mayor, authorise the police to prevent the use of any unlicensed building for the purpose of public entertainment, and a building shall be deemed to be unlicensed if any condition upon which a license may have been granted shall be unfulfilled.

The said licensing authority may recover by action a sum

Act 27, 1906. not exceeding Twenty Pounds (£20) Sterling from the owner or lessee of any unlicensed building used for the purpose of public entertainment for each and every time such building is so used. The Council may make By-laws for the purpose of minimising the risk of fire in any building used for any public purpose.

Slaughter-houses.

13. The Council may erect and maintain, within the Borough, slaughter-houses for the slaughtering of cattle and other animals intended for human food, and may also make by-laws for the good management and use of such slaughter-houses and for ensuring that the meat is fit for human food.

The Council shall also be empowered to impose and collect fees or charge rent for the use of such slaughter-houses.

To prevent the evasion of the use of such slaughter-houses, and for the protection of public health, the Council may establish a place or places, within the Borough, for the examination, by an Officer of the Town Council, of fresh meat brought into such Borough, and may make by-laws for the management of such place or places, for the imposition of fees for the examination of such meat, for the seizure and disposal of any meat at such place or places in such a condition as to be unfit for human food, and for the infliction of penalties on any person conveying or sending meat within the Borough who shall fail or refuse to convey or send such meat to such place or places for examination, and on any person who shall offer for sale, within the Borough, any meat which has not been duly examined and approved of for human food.

14. Section 41 of Act No. 22 of 1894 shall, in its application to the Borough of Durban, be amended to read as follows :—

Superannuation Fund.

The Town Council of the Borough of Durban may establish a Superannuation Fund, and may give grants or pensions therefrom to Officers who have been in their employ over a period of at least ten years, or to Widows of such Officers, in pursuance of regulations passed in that behalf: Provided that in the cases of Officers who entered the Service of the Town Council before the establishment of a Superannuation Fund under Section 41 of Act No. 22 of 1894, and who would not derive any adequate benefit therefrom, it shall be lawful for the Town Council to give grants or pensions from the Borough Fund to such Officers or Widows of Officers to such an amount as in the discretion of the said Town Council shall meet the requirement in each case: And provided also that the maximum pension shall not exceed three-fourths of any such Officer's

salary at date of his retirement, if he shall have been in the employ of the Corporation for at least ten years, and that the salary of the same Officer shall not have been revised during that time, otherwise the pension shall be calculated upon the average annual amount of salary received by such Officer for three years next preceding the commencement of such pension. Act 27, 1906.

15. In so far as the Borough of Durban is concerned, Section 1 of Law No. 13 of 1884 is amended by substituting Eight Hundred Pounds (£800) Sterling for Four Hundred (£400) Pounds Sterling as the maximum amount of the Mayor's Table allowance in any one year. Mayor's Table allowance.

SCHEDULE.

LICENSES.

				Per annum.		
				£	s.	d.
Wholesale Dealers	...	...	...	7	10	0
Retail Dealers	...	...	...	5	0	0
Wholesale and Retail Dealers combined				10	0	0
Butchers	...	...	...	10	0	0
Millers	...	...	...	5	0	0
Bakers, including Confectioners			...	3	0	0
Boarding and Lodging Houses, and Refreshment Rooms	...	...	...	3	0	0
Tea Rooms	...	...	...	1	0	0
Native Eating Houses	...	...	...	5	0	0
Public Billiard Tables, each	...	...	...	10	0	0
Theatres and Music Halls	...	...	...	10	0	0
Hawkers, 7s. 6d. per month, or			...	4	10	0
Manufacturers	...	...	...	5	0	0
Sanitary Plumbers	...	...	...	5	0	0
Game license, for shooting on Town Lands				1	0	0

Act No. 33, 1906.

“To enable the Town Council of the Borough of Durban to convert certain Leasehold Lands at Addington and the Point into Freehold.”

[22nd August, 1906.]

WHEREAS, by Deed of Grant or Transfer, dated the Eighteenth day of July, 1899, the Town Council of the Borough of Durban acquired from the Government of Natal certain lands at Addington and the Point in extent one hundred and three acres three roods thirty-seven decimal two nine two perches more or less, as shown in the diagram framed by the Surveyor-General, annexed to the said deed and comprised within the boundaries A to L, appearing therein, the said land being bounded eastwards by Government land, south-eastward by Government land, Blocks G, F, and A Point, and streets, westwards by European Depot, Block E Point and Government land, and north-westwards by Town Lands of Durban :

AND WHEREAS it is expedient that the said Town Council should have power to allow the Lessees of certain of such lands to convert the same into freehold, in respect of which no authority at present exists :

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. It shall be lawful for the Town Council of the Borough of Durban to agree with the Lessee of any portion of the above-recited lands for the transfer of the freehold of any such land to the lessee upon such terms and conditions as may be mutually agreed upon: Provided that no right is hereby conferred upon any lessee to demand conversion into freehold of any leasehold lot or lots held by him, the right being reserved to the Town Council in their absolute discretion to determine from time to time what portions of such lands they will grant freehold title to as above.

2. In computing the price to be paid in respect of the purchase of any such land reasonable allowance shall be made to the lessee in respect of permanent improvements and buildings upon the land which may have been made during the currency of the lease, or of any lease of which the same may be a renewal, and which shall not at any previous time have been vested in the said Town Council.

3. And whereas certain transfers in freehold were granted by the Government of Natal during the period the said lands were

Town Council empowered to transfer in freehold.

Allowance for permanent improvements

Certain titles declared good.

in their possession under Act No. 3 of 1894, and the said Town Council have also granted similar titles since the lands have been acquired by them, and in order to remove any doubt as to the validity of such transfers and titles, the same are hereby confirmed and declared to be good and valid titles in freehold in like manner as if they had been granted under the authority of this Act. **Act 33, 1906.**

Act No. 37, 1906.

“To enable the Town Council of the Borough of Durban to grant Freehold Titles to certain Leasehold Lands mortgaged or hypothecated under ‘The Durban Corporation Loan Law, 1866.’”

[25th August, 1906.]

WHEREAS by “The Durban Corporation Loan Law, 1866,” the Town Council of the Borough of Durban were authorised at any time, and from time to time, during the period of forty years from the time at which the said Law took effect (namely the eighteenth day of December, 1866, the date of publication thereof in the *Government Gazette*), to raise and take up, by public competition or otherwise, as the Council might deem most advisable, either in England, in this Colony, or elsewhere, any and all sum and sums of money as should not at any one time exceed in the whole the sum of Fifty Thousand Pounds Sterling, as might be required from time to time for the purposes set forth in the said law ;

AND WHEREAS it is provided in the said law that any such sum or sums of money as aforesaid might be raised upon or by way of debentures or mortgage bonds or other securities as might from time to time by the said Council be deemed expedient ;

AND WHEREAS it is further provided in the said Law that all sums of money which shall become due or payable upon or by virtue of any such debentures, mortgage bonds, or other securities, together with all interest thereon, should be charged upon such three-eighth parts or portions of the Town Lands of the said Borough of Durban as were to be particularly described and set forth in such debentures, bonds, or other instruments, and payable out of such portion of the rents, rates, and general revenue of the said Corporation or Town Council as might be required to fully cover and discharge any sum or sums of money due or accruing under the said Law in preference to all other payments which thereafter might be charged upon the aforesaid three-eighth parts or portions of the Town Lands, or the rents, rates, and general revenue of the said Borough :

Act 37, 1906.

AND WHEREAS the said Town Council raised the sum of Fifty Thousand Pounds Sterling on debentures upon the security of the said three-eighth parts or portions of the Town Lands, as follows :—

2,187 Acres 1 Rood and 32 Perches, being three-eighths of the present extent of the Town Lands of the Borough of Durban, bounded North-West by Cato Manor and part of “Brickfields,” South-East by Admiralty Reserve and Town Lands, South-West by Town Lands and Freehold Lots 4 to 1 and the Umbilo River, and North-East by Public Road to Pietermaritzburg and lettered A, C, K, R, S, W, F, G, D, N, P. X, B, on the Diagram of the said Town Lands, filed in terms of said law in the respective offices of the Surveyor-General and Registrar of Deeds of the said Colony and of the Town Clerk of the said Borough laid down or marked off upon the general plan of the Town Lands of the said Borough, as required by said Law :

AND WHEREAS the said Law expires on the Eighteenth day of December 1906, and provision has been made for the due payment and discharge in terms of the said Law of the said debentures :

AND WHEREAS the Town Council were authorised by the said Law to lease the said lands without the consent of the debenture holders, and have leased portions thereof accordingly; and whereas, by Section 3 of the “Durban Borough Land Law of 1884,” it is provided as follows :—

“ Subject to the provisos hereinafter contained, the
 “ Town Council of the Borough of Durban may, at
 “ any time, agree with any present or future lessee
 “ of any portion of the three-eighths of the Town
 “ Lands of the Borough of Durban, specially
 “ charged by Law dated the 12th December, 1866,
 “ with the £50,000 borrowed upon ‘Durban Loan
 “ Securities’ for the eventual transfer to such
 “ lessee of the freehold of the land leased to such
 “ lessee upon such terms as may be mutually
 “ agreed to, provided that no such transfer shall be
 “ effected whilst any portion of the said sum of
 “ £50,000 shall be unpaid, and provided that no
 “ such agreement shall in any way prejudice the
 “ rights as a mortgagee of any person who may
 “ hold any of the debentures of the Borough of
 “ Durban known as the ‘Durban Loan Securities,’

“ and provided that each such agreement shall be in writing, and shall not be valid unless it recites this clause at full length:” **Act 37, 1906.**

AND WHEREAS under and by virtue of the authority in such Section contained, the Town Council of the Borough of Durban, as Vendors, have agreed with numerous purchasers of such lands, being leasehold for the eventual transfer to such purchasers or their respective assigns of the freehold of said lands at the expiry of three months from the Eighteenth day of December, 1906 :

AND WHEREAS many of the original purchasers have sold their leasehold lands or portions thereof with right to transfer in freehold under said agreements, and, further, sales and transfers have been effected from time to time, the procedure being to file declarations of sale and purchase and pay transfer duty on each transaction :

AND WHEREAS it is desirable to empower the said Town Council to grant transfer in freehold direct to the last purchasers of such lands or any sub-divisions thereof, and in order to allow of such transfers being made, it has been necessary to have a proper survey made of the lands and diagrams prepared for registration in the Surveyor-General's Office :

AND WHEREAS such survey has disclosed discrepancies between the diagrams annexed to the existing leases and the new diagrams to be annexed to the freehold titles, and it is necessary to provide that where such differences exist, the area to be transferred shall correspond with the new survey :

AND WHEREAS it is also desirable to protect Mortgagees during the period intervening between the cancellation of the leases and the granting of freehold titles, and to provide for the transposition of the mortgages to the freehold titles :

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. The Town Council of the Borough of Durban are hereby empowered, after the Eighteenth day of December, 1906, to grant transfer in freehold direct to the present holders of leases, or of any sub-divisional leases, of any portion of the hereinbefore recited three-eighths of the Town Lands of the Borough, who are in possession of an Agreement or Cession of Rights under such Agreement for such eventual transfer in freehold in terms of Section 3 of the “Durban Borough Land Law of 1884” ; and the Registrar of Deeds of this Colony is also hereby authorised and required to register such transfers in the Transfer Register of his office free of and discharged from the Debentures issued

Town Council specially empowered to pass transfers and Registrar authorised to register same.

Act 37, 1906. under the “Durban Corporation Loan Law, 1866,” under the title of “Durban Loan Securities,” and without being entitled to require the production of intermediate transfers: Provided, however, that transfer and stamp duty shall have been, or shall be, paid on all intermediate sales of such properties. There shall be payable on all transfers issued under this Act the usual registration fee of £1 1s. 0d. and a stamp Duty of 5s. on originals, and 2s 6d. on copies.

Stamps and fees.

Debentures to be discharged.

2. No such transfers in freehold shall be made until the whole of the said debt of Fifty Thousand Pounds Sterling has been discharged: Provided that the debt shall be regarded as sufficiently discharged for the purposes of this Act by a deposit with the Master of the Supreme Court of any sum necessary to pay off the Debenture or Debentures, with any interest accrued thereon, of any holder or holders who may not apply at the due date thereof for the payment of same, and as regards such of the Debentures as may have been paid off the production of the discharged Debentures to the Registrar of Deeds shall be a sufficient proof of such discharge and payment as regards the liability of the Durban Town Council.

Discrepancies of area in diagrams.

3. In any case in which any discrepancy shall be found to exist between the area set forth in a lease, or sub-divisional lease, and diagram annexed thereto, and the area shown in the new diagram, or diagrams to be annexed to the freehold title to be granted by the Town Council, the extent of area to be transferred shall correspond as near as may be with the new diagram, or diagrams, having regard to the existing road lines and the respective road frontages, and neither the Town Council nor intermediate lessees shall be held liable for any such greater or lesser area than on such new diagram, or diagrams, nor shall any claim be competent in respect of arrear rent or rates on any greater area or rebate of rent or rates in respect of any deficiency of area.

Protection of mortgages.

4. In any case where a mortgage exists on any leasehold land to be converted into freehold title, the Mortgagee's position as such shall not be prejudiced during the period, if any, intervening between the cancellation of the lease or of any sub-divisional lease, and the issue of the freehold title, and it shall be lawful for the Registrar of Deeds to transfer any such mortgage from the cancelled lease to the freehold land by making an endorsement of particulars of the same on the freehold title and on the bond itself, and also making the requisite entries in the Public Debt Registry, without the owner of the property being compelled to pass a new Bond, and on such endorsement on the freehold title deed and bond and entry in the Public Debt

Act 37, 1906.

Register, the said bond shall be valid over such freehold property in like manner as it was over the property when leasehold; for all endorsements so made the Registrar of Deeds shall be entitled to make the usual charge of 4s. 6d. each: Provided, however, that the said bond shall not extend over any land or property beyond that set forth in the freehold title and the diagram annexed thereto.

Act No. 48, 1906.

“To increase the Borrowing Powers of the Borough of Durban for the purpose of enabling the Town Council thereof to carry out certain works in connection with Sewerage Extensions and Storm Water Drainage, and also to authorise the said Town Council to adjust Sewerage and Bay Embankment Accounts, and to create a Sinking Fund for redemption of the Bay Embankment Loans.”

[5th September, 1906.]

WHEREAS it is expedient to increase the Borrowing Powers of the Borough of Durban to the extent of £100,000, for the purpose of enabling the Town Council thereof to carry out certain works in connection with sewerage extensions and storm water drainage:

AND WHEREAS, by Law No. 20 of 1891, the Town Council of the said Borough of Durban were authorised to carry out a Main Sewerage Scheme for the Borough of Durban, the borrowing powers in connection with which are exhausted; and whereas it is necessary on sanitary grounds that the Sewerage System should be extended into the suburban districts:

AND WHEREAS it is also necessary, in the interests of public health and on other grounds to provide for the extension of Storm Water Drainage in the said suburban districts of the Borough:

AND WHEREAS, by Acts Nos. 29 of 1895, and 25 of 1901, the said Town Council were authorised to borrow sums amounting in the aggregate to £100,000, for the purposes of the Bay Embankment Scheme and the Bay Foreshore Reclamation, of which amount, however, £90,000 only have been borrowed; and whereas, in consequence of the re-acquirement by the Government of Natal of portions of the lands formerly acquired by the Town Council for the purposes of the Bay Embankment Scheme, there is now a credit balance in the Bay Embankment Account; and whereas out of this sum it is proposed to set aside £16,070

Act 48, 1906. as a Sinking Fund to redeem the said Bay Embankment Loans of £90,000; and whereas, after providing for such Sinking Fund, there will be left in the Bay Embankment Account an unexpended balance of £20,000, or thereabouts, which not being required for Bay Embankment purposes, it is proposed to transfer to the Sewerage Account :

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

Short title. 1. The short title of this Act shall be "The Durban Consolidated Stock Act, 1906."

Authorisation of loan. 2. The Town Council of Durban are authorised to borrow sums up to, but not exceeding a total sum of One Hundred Thousand Pounds Sterling (£100,000), to be used for the purposes and in the proportions set forth in the Schedule to this Act annexed.

Issue of Stock. 3. The said Town Council are empowered to issue in the manner provided by Law No. 29 of 1888 New Consolidated Stock for the moneys borrowed under this Act, and the Stock issued under this Act shall be deemed to be Consolidated Stock within the meaning of the said Law No. 29 of 1888, and shall be a charge upon, and shall, with the interest thereon, be payable out of the rents, rates, and general revenue of the Borough, in the same way as if the Stock issued under this Act had been issued under the said Law No. 29 of 1888.

Saving of prior rights on rates, &c. 4. Nothing in this Act, and nothing done under the provisions of this Act, shall take away, abridge, or prejudicially affect any right or interest, by way of priority, or otherwise, of any person in or to the rates, rents, or general revenue of the Borough.

Sinking Fund. 5. The said Town Council are also authorised to set aside out of the sum at present standing to the credit of the Bay Embankment Account of the Borough the sum of £16,070 for the purpose of creating a Sinking Fund to redeem the Bay Embankment Loans, amounting in the aggregate to £90,000, falling due in the years 1945, 1948, 1952, and 1953, respectively.

Transfer of Accounts. 6. After providing for the creation of the said Sinking Fund, the said Town Council are authorised to transfer the unexpended balance of £20,000, or thereabouts, in the Bay Embankment Account to what is known as the Sewerage Account, and to expend the same for purposes to which that account is applicable, in like manner as if the same had been originally borrowed for that purpose.

SCHEDULE.

Act 48, 1906.

Sewerage Extensions	50,000
Storm Water Drainage	50,000
	<hr/>
	£100,000
	<hr/>

DYNAMITE.

[See "EXPLOSIVES."]

EAST AFRICAN COAST FEVER.

[See "ANIMALS (DISEASES)."]

EDUCATION.

Act No. 6, 1903.

"To amend Law No. 16, 1877, entitled Law 'To provide for the promotion of Higher Education in the Colony of Natal, and for the establishment, maintenance, and direction of High Schools in the towns of Pietermaritzburg and Durban.'"

[8th July, 1903.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Repeal.

1. So much of the proviso of Section 14 of Law 16, 1877, as limits the grants in aid of schools not established under that Law to one hundred pounds per annum for each such school, is hereby repealed.

Act No. 41, 1903.

"To abolish the Pietermaritzburg and Durban Collegiate Trusts."

[21st November, 1903.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Repeal of
Laws.

1. Law No. 18, 1861, entitled Law "For establishing, regulating and providing for the Pietermaritzburg Collegiate Institution," Law No. 19, 1861, entitled Law "For establishing, regulating and providing for the Durban Collegiate Institution," Law No. 45, 1884, entitled Law "To repeal in certain respects Law No. 18 of 1861, and to make provision for certain Funds and Lands under the said Law being made available for educational needs in the Colony," Law No. 12, 1891, entitled Law "To repeal in certain respects Law No. 19, 1861, entitled Law 'For establishing, regulating and providing for the Durban Collegiate Institution,' and to make other provision therefor," and Section 7 of the Education Act, 1894, are hereby repealed.

2. The Pietermaritzburg High School or College and the Durban High School, and all the lands, buildings, and other property belonging thereto or to the Trusts heretofore existing under any of the said repealed enactments, shall be vested in and be the property of the Colonial Government of Natal, free and discharged from all Trusts aforesaid: Provided that none of such lands situate in any township constituted under Law No. 11, 1881, shall be claimable by, or the legal title thereof be transferable to, or be deemed to have vested in, any Local Board.

Act 41, 1903.
Schools and lands, etc., vested in Colonial Government and discharged from Trusts.

3. All debts, mortgage bonds, contracts and liabilities of, and all rights competent to, the Governor in Council in virtue of the said repealed 7th Section of the Education Act, 1894, shall be binding upon or competent to the Colonial Government without alteration or prejudice in their validity.

Reservation of debts, &c.

4. The Minister of Education on behalf of the Colonial Government, shall be charged with the maintenance of the said Pietermaritzburg and Durban High Schools or Colleges, and shall have power to do all necessary acts for carrying out the objects thereof, subject always to the provisions of the said Act of 1894, as amended by this Act.

Duties and Powers of Minister of Education.

5. The limit of Ten Thousand Pounds Sterling (£10,000) placed upon loans for the purposes of schools, by the proviso to Section 12 of the Education Act, 1894, is hereby repealed.

Amendment of Section 12 of Education Act, 1894.

ELECTION PETITIONS.

[See "PARLIAMENT."]

ELECTRIC TELEGRAPH.

[See "TELEGRAPH."]

EMIGRANTS.

[See "IMMIGRATION."]

EMPLOYERS' LIABILITY.

Act No. 18, 1906.

“To amend the Employers' Liability Act, 1896.”

[26th July, 1906.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Repeal.

1. Section 6 of the Employers' Liability Act, 1896, is hereby repealed, and the following section is enacted in lieu thereof:—
6. An action for the recovery under this Act of compensation for an injury shall not be maintainable unless notice in writing that injury has been sustained is given within three months, and the action is commenced within six months from the occurrence of the accident causing the injury, or, in case of death, within twelve months from the time of death: Provided always that the want of such notice shall be no bar to the maintenance of such action if the judge shall be of opinion that there was reasonable excuse for such want of notice.

EVIDENCE AND WITNESSES.

[See "CONTRACTS"; "CRIMINAL LAW"; "OATHS."]

Act No. 12, 1906.

"To compel the attendance, as Witnesses, of persons residing in this Colony before the Courts of neighbouring States and Colonies."

[12th July, 1906.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. Whenever a subpoena, purporting to be issued by the proper officer of any competent Court in any neighbouring State or Colony to which this Act shall apply for the purpose of securing the attendance of any person resident in this Colony as a witness before such Court, shall be transmitted by such officer to the Magistrate of the division within which the person whose attendance is so required shall be residing, it shall be the duty of the said Magistrate to endorse on such subpoena his order that the same shall be served on the person therein named; and the subpoena so endorsed shall thereupon be handed to the messenger of the said Magistrate's Court, or such other person as the said Magistrate shall specially appoint for the purpose, whose duty it shall be to serve the same as soon as practicable on the person designated therein: Provided always that the necessary expenses of such service, and the necessary expenses to be incurred by the person subpoenaed in going to and returning from the Court named in such subpoena, and to be incurred during his detention at the place where his evidence has to be given, according to such tariff as may from time to time be framed by the Governor, shall be transmitted to the said Magistrate, together with the said subpoena, and the portion of such expenses assigned to the person named in the said subpoena shall be paid to him by the officer serving the same.

Witness resident in Natal may be summoned to attend before Court of a neighbouring colony.

2. Every person who shall have been served with a subpoena as in the previous section mentioned shall be bound to attend on the day and at the place therein named; and in case he shall fail so to do, and shall also fail to prove any lawful and valid excuse for such non-attendance, he shall be liable to a penalty not exceeding One Hundred Pounds (£100) Sterling, which shall be recoverable in the Court of the Magistrate of the division in

Fine of £100 for failure to attend unless valid excuse proved.

Act 12, 1906. which he shall be residing, at the instance of the Attorney-General of the Colony, or any of the Clerks of the Peace within their respective jurisdictions.

Under what circumstances penalty may be enforced.

3. The return of the person authorised to serve such subpoena, as in the first section of this Act provided, showing that such service has been duly made, and a certificate under the hand and seal of the Presiding Judge or Magistrate of the Court from which the said subpoena was issued, that the person so served did not attend when called thereon, and did not establish any valid or legal excuse for his default, shall be deemed sufficient proof of such person's non-attendance for the purpose of enforcing the penalty in the last preceding section mentioned.

Immunity of witness from arrest for debt

4. No person resident in any neighbouring State or Colony to which this Act shall apply who may be summoned as a witness before any Court of this Colony, and whose attendance before such Court shall be enforced by any legislative enactment of such State or Colony, shall be liable, while so attending, to be arrested upon any civil or criminal process for any debt formerly due or any offence formerly committed by him in this Colony.

Commencement.

5. This Act shall take effect so far as concerns any such State or Colony as soon as the Governor shall, by proclamation in the *Natal Government Gazette*, declare and make known that such State or Colony has made due provision to compel the attendance as witnesses before the Courts of this Colony of persons resident in such State or Colony (a).

Short title.

6. This Act may be cited as the "Witnesses Attendance Act, 1906."

EXCISE.

[See "REVENUE."]

EXECUTORS.

[See "DEATH DUTIES"; "PROBATE, &c."]

(a) By virtue of Procl. No. 111, 1906, this Act takes effect as regards the Orange River Colony from the 28th August, 1906, the date of promulgation of the Proclamation.

EXPLOSIVES.

[See "ARMS, AMMUNITION, &C."]

Act No. 10, 1903.

"To extend the provisions of Law No. 7, 1877, entitled Law
'To regulate the importation, landing, storage, and carrying
of dynamite and other explosive substances.'"

[8th July, 1903.]

BE IT ENACTED by the King's Most Excellent Majesty, by
and with the advice and consent of the Legislative Council and
Legislative Assembly of Natal, as follows:—

1. Law No. 7, 1877, shall apply to the importation of
explosives over any inland border in like manner, *mutatis*
mutandis, as to the importation of explosives by sea.

Act No. 2, 1906.

"To amend the laws relating to Explosives."

[17th January, 1906.]

BE IT ENACTED by the King's Most Excellent Majesty, by
and with the advice and consent of the Legislative Council and
Legislative Assembly of Natal, as follows:—

1. All references contained in Law No. 7, 1877, and in any
amending Laws or Acts to the Board established under Law
No. 6, 1876, shall be expunged, and the powers and authority of
such Board shall be vested in the Controller of Arms.

EXPORTATION.

Act No. 12, 1901.

“To impose a duty on the export of Angora Rams and Ewes.”

[30th July, 1901.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Export Duty
on Angora
Rams and
Ewes.

1. Upon every Angora ram or ewe exported from this Colony, after the taking effect of this Act, except as hereinafter provided, there shall be payable to the officer appointed to receive the same, a duty of One Hundred Pounds: Provided, however, that no such duty shall be payable on the export of any such ram or ewe to any South African State, Territory, or Colony which shall by its own Legislature have imposed a duty on the export of Angora rams and ewes not less than the amount imposed by this Act.

Penalty for
evasion.

2. Every person who shall contravene the provisions of this Act by exporting any Angora ram or ewe (except as hereinbefore excepted) without payment of the duty imposed by this Act, shall, on conviction, be liable to a fine of not less than Twenty-five Pounds, nor exceeding One Hundred Pounds, for every such ram or ewe so exported, or in default of payment to imprisonment, with or without hard labour for any term not being less than one month, nor more than six months, unless such fine be sooner paid.

Recovery of
penalties.

3. All penalties under this Act may be recovered and enforced in the Court of the Magistrate of the Division in which the offence was committed.

Regulations.

4. It shall be lawful for the Governor from time to time to make such rules and regulations as he may deem fit for carrying out the provisions of this Act.

Commence-
ment.

5. This Act shall take effect from a date to be fixed by a Proclamation, which shall not be made until the Governor shall have ascertained that the Governments of the Colony of the Cape of Good Hope and of the Province of Mozambique have made similar provision for prohibiting or restraining the export of Angora rams and ewes.

Short title.

6. This Act may be cited for all purposes as “The Angora Export Duty Act, 1901.”

EXTRADITION.

Act No. 13, 1906.

“To provide for the more convenient administration of the Fugitive Offenders Act, 1881, of the Imperial Parliament.”

[12th July, 1906.]

WHEREAS by the Act of the Imperial Parliament of Great Britain and Ireland known as the Fugitive Offenders Act, 1881, it is amongst other things provided that the jurisdiction under part one of the said Act to hear a case and commit a fugitive to prison to await his return shall be exercised in a British possession by such court, judge or magistrate as may be from time to time provided by an Act or Ordinance passed by the legislature of that possession :

AND WHEREAS it is expedient to confer on magistrates in Natal the powers necessary for exercising such jurisdiction as aforesaid :

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal as follows :—

1. The jurisdiction under part one of the Act of the Imperial Parliament known as the Fugitive Offenders Act, 1881, to hear a case and commit a fugitive to prison to await his return shall be exercised in Natal by any magistrate appointed under the provisions of the Magistrates' Courts Act, 1896.

Jurisdiction
conferred on
Magistrates.

2. This Act shall commence on the day on which the Governor makes known by proclamation that His Majesty the King has by Order in Council directed that this Act or any part thereof shall have effect within this Colony as if it were part of the “Fugitive Offenders Act, 1881,” of the Imperial Parliament (*a*).

Commence-
ment.

FACTION FIGHTING.

[See “NATIVE LAW.”]

FACTORIES.

[See “AGRICULTURE.”]

(*a*) Order in Council proclaimed by Procl. No. 143, 1906. See also Procl. No. 710, 1906.

FENCES.

[See "AGRICULTURE"; "ROAD BOARDS."]

Act No. 9, 1902.

"To regulate the Fencing of Public Roads."

[23rd May, 1902.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Repeal.

1. Section 44 of the Fencing Law, 1887, is hereby repealed.

Interpretation.

2. In this Act the expression "Public Road" means a public road maintained by Government, but not being a main trunk road proclaimed to be such, as hereinafter provided. The word "proprietor" includes a tenant or occupier.

Erection of gates over public roads.

3. It shall be lawful for the proprietor of any land over which a public road passes to erect gates over such road subject to the provisions of this Act, but not otherwise.

Notice of intention to erect gates.

4. A proprietor wishing to erect gates over a public road shall give a month's notice in writing to the Chief Engineer, Public Works Department (who is hereinafter referred to as the Chief Engineer), and shall publish a notice of his intention at least twice in a newspaper published in the Colony, the first publication being not later than one week after the notice to the Chief Engineer. Such notice shall as closely as may be follow the form of the schedule of this Act, and shall contain as precise a description as possible of the site of the intended gates.

Notice of objections.

5. Any person having objections to the erection of the proposed gates shall notify the same in writing to the Chief Engineer and the proprietor of the land on which it is proposed to erect such gates.

Enquiry by Chief Engineer.

6. The Chief Engineer shall make any enquiries he may think necessary, and shall take into consideration any objections lodged with him, and if he thinks any objections important he shall allow the applicant an opportunity of answering them, and if he shall think fit he may call the parties before him at such place as he may appoint.

Decision of Chief Engineer.

7. The Chief Engineer shall give his decision on any application in writing, and shall state the grounds thereof, and the decision shall be notified to the parties.

8. Permission to erect gates shall be refused unless in the opinion of the Chief Engineer their position or other circumstances will not render them dangerous or otherwise detrimental to the public interests. **Act 9, 1902.**
Refusal of permission.

9. If any person interested is aggrieved by the decision he may appeal to the Minister in charge of the Department of Roads, whose decision shall be final. Appeal to Minister.

10. No gates shall be erected upon a public road unless and until the application therefor shall have been granted. Gates not to be erected without permission.

11. In the case of a road which divides the lands of different proprietors, such proprietors may combine in an application for leave to erect gates. Joint application.

12. Gates erected under this Act shall be swing gates sufficient to allow the reasonable free use of the road, having regard to the traffic thereon; such gates shall have a balance catch or other free fastener, and shall be of such width and construction as the Chief Engineer shall determine. They shall at all times be kept in good order by the proprietor at his own expense. Character and construction of gates: up-keep.

13. The proprietor shall be liable for any accident, loss, or injury arising from the negligent or wrongful use by him or his agents or servants of any gates erected over a public road, or from the gates or any accessory thereof being in bad repair, or defective in construction or condition. Liability of proprietor.

No liability shall attach to the Colonial Government or to the public revenue by reason of any accident, loss or injury arising from any of the aforesaid causes. Exemption of Government from liability.

14. If the proprietor fails to keep any gate and its approaches in good condition, both as to construction and repair, it shall be lawful for the Chief Engineer, or any officer deputed by him for that purpose, after one week's notice to the proprietor, or earlier if there be pressing cause, to make or cause to be made any necessary repairs or alterations, and he may recover the cost thereof from the proprietor in the Magistrate's Court. Compulsory repair or alteration.

In the event of any repeated or continued misuse or neglect or defect in connection with such gates the said officer may, upon notice to the proprietor, apply to the Magistrate for an order for the removal of the gates without compensation or for any other order which may appear proper. Removal of gates for misuse or defect.

15. No gates shall be erected upon any main trunk road. Exclusion of main trunk road.

16. The Governor in Council may from time to time, by Proclamation, declare any road to be a main trunk road or may similarly declare that any main trunk road shall cease to be such from a date specified in the Proclamation. Creation and disrating of main trunk roads.

Act 9, 1902.

Removal of gates on proclamation of main trunk road.

17. Whenever a road upon which gates are erected is proclaimed as a main trunk road, the proprietor shall remove the same within one month after receiving notice from the Chief Engineer to do so, or within such further time as the Chief Engineer may in writing allow.

Removal of any gate by order of Chief Engineer.

18. The Chief Engineer shall be entitled at any time to order the removal of any gates which may be erected under this Act, or which may have been erected before the passing of this Act, over a public road, and within one month after receiving notice to that effect the proprietor shall remove the gates specified in the notice.

Gates erected before proclamation of public road.

19. Whenever any by-road, on which gates shall have been erected, shall be proclaimed as a Public Road, the Chief Engineer may allow such gates to remain, provided they in all respects comply with the requirements of this Act, and in such cases all the provisions of this Act shall apply to such gates.

Closing and fastening gates

20. Every person not being the sole proprietor, or having his authority, who shall pass through any gate provided in pursuance of this Act, or to which this Act shall apply, shall immediately after passing through the same, with or without any vehicle or animals in his care, close and fasten such gate, or cause the same to be closed and fastened under pain of a fine not exceeding Five Pounds, or in default of payment thereof to imprisonment, with or without hard labour, for a term not exceeding one month.

Offence of unlawfully opening gates.

21. Any person not being the sole proprietor, or having his authority, who shall open or unfasten any gate provided in pursuance of this Act, or to which this Act shall apply, except for the purpose of then and there passing through the same with or without any vehicle or animals in his care, or at the request of some person or persons then and there desiring so to pass, shall be liable to a fine not exceeding Ten Pounds, or in default of payment thereof to imprisonment, with or without hard labour, for a term not exceeding two months.

Jurisdiction.

22. All contraventions under this Act shall be cognisable in the Magistrates' Courts.

Saving of claims for damages.

23. Nothing in this Act contained shall prevent any person who deems that he has sustained loss or damage by or in consequence of the leaving open of any gate erected in accordance with the provisions of this Act from bringing an action for the recovery of such loss or damage.

SCHEDULE.

Notice is hereby given, that it is my intention to erect gates upon the farmacross the public road

fromto.....at the **Act 9, 1902.**
 following point (*here describe as accurately as possible the site of
 the intended gates*).

Notice of any objections must be given in writing to the
 Chief Engineer, Public Works Department, Pietermaritzburg,
 and to me, on or before the (*here specify the date of the expiry of
 the notice to the Chief Engineer*).

(Name)

Address.....

Act No. 52, 1906.

“To extend the operation of the Fencing Law, 1887.”

[21st December, 1906.]

BE IT ENACTED by the King’s Most Excellent Majesty, by
 and with the advice and consent of the Legislative Council and
 Legislative Assembly of Natal as follows:—

1. Sections 2, 3, 4, 5 and 6 of the Fencing Law, 1887, are **Repeal.**
 hereby repealed, and from the date of the commencement of this
 Act, the said Law, with the Laws and Acts amending the same,
 shall be in operation throughout the whole of the Colony, except
 the Province of Zululand and those parts which are described in
 Act No. 1, 1903, as the Northern Districts.

2. The Governor in Council may by Proclamation extend the **Extension of**
 operation of the said Laws and Acts to the Province of Zululand **Fencing Laws.**
 and the Northern Districts aforesaid, or he may by Proclamation
 from time to time extend the operation thereof to any specified
 part or parts of the Northern Districts.

3. This Act shall be read in conjunction with the Fencing **Joint con-**
 Law, 1887. **struction.**

FIREARMS.

[See “ARMS, AMMUNITION, &c.”]

FIRMS (REGISTRATION OF).

Registration of Firms Act, 1906.

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Act No. 35, 1906.

“ To provide for the Registration of Firms.”

[25th August, 1906.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal as follows:—

Short title. 1. This Act may be cited as the “Registration of Firms Act,” 1906.

Commencement. 2. This Act shall come into operation on the first day of October, 1906.

Definitions. 3. In this Act, unless the context otherwise requires, “business” includes trade and profession; “firm” means any two or more persons lawfully associated for the purpose of carrying on any business, but shall not include a partnership

registered under Law No. 1, 1865 (a), or a company registered or incorporated within the British Dominions under, by, or in pursuance of any Letters Patent, Royal Charter, or Act of Parliament other than this Act; "firm-name" means the name or style under which any business is carried on, whether in partnership or otherwise; "prescribed" means prescribed by this Act, or the regulations thereunder; "usual name" includes a signature habitually used for business purposes. The forms contained in the Schedules of this Act may be varied by the regulations, and any form so prescribed shall be deemed to be substituted for the respective Schedules of this Act.

Act 35, 1906.

4. From and after the commencement of this Act :

Who require to be registered.

- (a) Every firm carrying on business or having any place of business in Natal; and
- (b) Every person carrying on business or having any place of business in Natal under any firm-name consisting of or containing any name or addition other than the full or usual name of that person, shall register in the manner directed by this Act, the name under which their or his business is or is intended to be carried on.

5. Registration under this Act shall be effected by sending by post, or delivering to the Registrar of Deeds a statement in writing in the form, as nearly as may be, of Schedule A of this Act, containing the following particulars:—

Registration, how effected.

- (a) The firm-name;
- (b) The nature of the business;
- (c) The place or places where the business is carried on, or is intended to be carried on in Natal.
- (d) The full name, usual residence, and other occupation (if any) of the persons or person carrying on or intending to carry on the business;
- (e) If the business is commenced after the commencement of this Act, the date of the commencement of the business.

For every such registration there shall be paid to the Registrar of Deeds a fee of Ten Shillings.

Fee for registration.

6. (1) The person or persons carrying on or intending to carry on any business required to be registered as aforesaid shall sign a statement containing the particulars required by this Act for registration, such statement, if made in Natal, shall be signed

Statement to be made and signed and duly attested.

(a) See this Law under tit. "PARTNERSHIPS (LIMITED)," Vol. 2. It will be noted that the definition does not in express terms exclude companies regis-

tered in Natal, but that would follow from the reference to the "British Dominions." See also sec. 12, post.

Act 35, 1906. in the presence of the Registrar of Deeds or a Magistrate or Justice of the Peace, or a Commissioner for Oaths, and if made elsewhere than in Natal, shall be authenticated in the manner required by the Rules of Court made under the provisions of Act No. 39, 1901 (a), or any Act amending or repealing same.

Partner may sign.

(2) The foregoing provisions of this section shall be deemed to be complied with if any partner in Natal signs the said statement in the prescribed manner :

If no partner in Natal statement may be signed by person duly authorised.

(3) If there is in Natal no partner carrying or intending to carry on a business carried on under a firm-name, the foregoing provisions of this section shall be deemed to be sufficiently complied with if the said statement is signed or acknowledged in the prescribed manner by any person who has previously filed in the Office of the Registrar of Deeds a statutory Declaration or produced a power of attorney showing that he is duly authorised by, and on behalf of such person or persons as is or are described in such declaration or power of attorney to carry on the business the firm-name of which he desires to have registered.

Entry to be made in statement if person claims to be a sleeping partner.

(4) If it is claimed that any partner of a firm is exempt from liability to the creditors of the firm, or is only liable to a limited extent, on the ground of being a sleeping or anonymous partner or a partner *en commandite* or the like, an entry of such claim may be made in the place reserved therefor in the form of statement: Provided, however, that the making of such entry, or the registration of the names of any partners, shall not of itself be deemed to increase or affect the liability of any person as a partner, or to create a liability which would not otherwise exist.

When provisions must be complied with.

7. (1) Firms and persons required to be registered under this Act, who are carrying on business in Natal at the date of the commencement of this Act, shall comply with the provisions of this Act before the first day of January, 1907.

(2) Other firms and persons required to be registered under this Act shall register under this Act before they commence business.

Where business is carried on under power of Attorney it must be registered.

8. In any case in which the business of a firm or person is carried on by another person as the attorney or agent of the firm or person owning the business, it shall be the duty of such attorney or agent to register with the Registrar of Deeds the power of attorney or other authority under which he acts.

The provisions of Section 7 of this Act shall *mutatis mutandis* apply to registration under this section.

Change of constitution of firm to be published;

9. Whenever a change occurs in the constitution of a registered firm, the members of the firm as reconstituted shall,

(a) See tit. "COURTS (SUPREME)." See also Rules published in 2 N.L.J. p. 63

within one month after such change, send by post or deliver to the Registrar of Deeds a statement thereof as nearly as may be in the form contained in Schedule B of this Act, and shall within the same time publish in the *Natal Government Gazette* a notice giving the particulars of such change. **Act 35, 1906.**

The like provision shall apply whenever a change occurs in the ownership of any business carried on by one person, and required to be registered under this Act. Also change of ownership of business.

The like provision shall also apply (except as to the requirements of publication in the *Government Gazette*) whenever a firm or person registered under this Act begins to carry on business at any place other than the place or places mentioned in the certificate of registration. Where firm, &c., begins to carry on business in a new place.

For each registration under this section there shall be paid to the Registrar of Deeds a fee of five shillings. Fee for registration.

10. Whenever a change is made in the firm-name of any firm or person required to be registered under this Act, such firm or person shall within one month register again, as in the case of a new business, and shall furnish to the Registrar of Deeds an additional statement in the form of Schedule C of this Act, and shall within the same time publish in the *Natal Government Gazette*, a notice giving the particulars of such change. Change in firm name to be registered.

For every such registration, there shall be paid to the Registrar of Deeds a fee of five shillings. Fee.

11. (1) If any person by this Act required to register the name under which his business is or is intended to be carried on, or to deliver any statement, shall make default, or shall fail to comply with any of the provisions of this Act within the time specified by this Act, he shall on conviction be liable to a penalty not exceeding Five pounds for the first offence, and for every subsequent conviction to a penalty not exceeding Ten pounds. Penalty for failing to comply with Act.

(2) The manager or agent in Natal of any person absent from Natal, or of any firm, the partners of which are absent from Natal, shall be responsible for all the obligations of such person or firm to register under and comply with this Act, and shall be liable to the penalties to which such person or the partners of such firm would if in Natal be subject. Responsibility of manager or agent.

12. No license shall be issued (a) under the Licensing and Stamp Acts, or by any borough or township authorities, unless the documents hereunder respectively mentioned are first produced to the Licensing Officer or authority, that is to say : Licenses not to be issued until certain documents are produced.

(a) There is no saving of the right to prosecute for trading without the necessary license.

Act 35, 1906.

In the case of a firm or of a person who is by this Act required to be registered, the certificate of registration (and any subsequent certificates necessary under this Act) together with a declaration as nearly as may be in the form of Schedule D or Schedule E, as the case may be.

In the case of a person not required to be registered, a declaration in the form of Schedule F.

The Licensing Officer or authority shall preserve every such declaration with the records relating to the licenses.

This section shall not apply to registered joint-stock companies or corporations.

Register of licenses to be kept.

13. Every licensing officer or authority shall keep a register of all licenses issued, which register shall contain the names of all persons constituting any firm for the use of which such license is issued, and such register may be inspected, and copies or extracts therefrom made by any person on payment of a fee of one shilling.

Suit by firm, &c., may be stayed where default has been made in delivering statement.

14. Where any firm or person by this Act required to send or deliver any statement to the Registrar of Deeds has therein made default, and during such default commences any suit or action in any Court in the firm-name or for a cause of action arising out of any dealing by such firm or person in the firm-name, such court shall order the firm or person in default to send or deliver to the Registrar of Deeds the proper statement as required by this Act, and may stay all proceedings in the suit or action until the Order be complied with, or allow proceedings to be continued on an undertaking to comply with such order within a time to be limited by the Court.

If firm, &c., has failed to register it may be sued under usual name.

15. If any firm or person required to be registered as provided in this Act shall fail to register accordingly, all proceedings in any Court of competent jurisdiction may be taken, and prosecuted against such firm or person in the name under which such firm or person is carrying on business, and such name shall for the purposes of such proceedings be a sufficient designation of such firm or person in all writs, summonses, complaints, and other legal documents and instruments: Provided, however, that nothing in this section shall be construed to exempt any firm or person from compliance with any of the provisions of this Act.

Wilfully making false statement.

16. Every person who wilfully makes, signs, or acknowledges, and sends, or delivers to the Registrar of Deeds any false statement purporting to be made under this Act shall be guilty of an offence, and shall, upon conviction, be liable to imprisonment for a term not exceeding two years, with or without hard labour.

Certificate of registration.

17. The Registrar of Deeds on receiving any statement made in pursuance of this Act, shall cause the same to be filed,

and shall send by post, or deliver a certificate of the registration thereof to the firm or person registering. **Act 35, 1906.**

Such certificate shall contain the names of all partners of the firm, together with its firm-name.

18. The Registrar of Deeds shall keep in proper books, to be provided for the purpose, a register and an index of all the firm-names and persons registered under this Act, together with the statements registered in reference thereto.

Register and Index.

19. (1) Any person may inspect and make a copy of or extracts from the statements filed by the Registrar of Deeds, and there shall be paid for every such inspection a fee of one shilling.

Inspection of statements.

(2) Any person may require a certificate of the registration of any firm or person, or a copy of or extract from any registered statement to be certified by the Registrar of Deeds, and there shall be paid for every such certificate of registration a fee of five shillings.

(3) A certificate of registration or a copy of or extract from any statement registered under this Act purporting to be signed and certified by the Registrar of Deeds shall in all Courts of Justice within the Colony of Natal be admitted as *prima facie* evidence of the fact and date of registration as shown thereon, and of the other particulars contained.

Admissibility of copies in evidence.

20. It shall be the duty of the Registrar of Deeds to take cognizance of, and to report to the Attorney-General every contravention on the part of any firm or person of any of the provisions of this Act or of any regulations made hereunder.

Contraventions to be reported.

21. The Governor may from time to time make regulations :

Regulations.

(a) prescribing the fees to be paid to the Registrar of Deeds other than those specially fixed by this Act :
Provided that no such fee shall exceed the sum of two shillings ;

(b) prescribing the forms to be used and the mode of payment of fees under this Act ;

(c) prescribing the duties or additional duties to be performed by the Registrar of Deeds for the purposes of this Act ;

(d) prescribing generally the conduct and regulations of registration under this Act, and as to any matters incidental thereto ;

and may by any such regulations appoint any penalty not exceeding five pounds to be imposed for any breach of the same.

22. All offences or suits under this Act shall be cognizable in the Court of a Magistrate.

Cognizance of offences

FIRMS (REGISTRATION OF).

Act 35, 1906

SCHEDULE A. (a).

FORM OF STATEMENT.

REGISTRATION OF FIRMS ACT, 1906.

(Form A.)—Original Registration of a firm (or person).
 The firm-name is
 The business of the firm (or person) is
 It is intended to carry on business at

Full Name or Names of person or persons carrying on or intending to carry on the business.	Usual Residence.	Other Occupation. Description and addition (if any).	If any exemption is claimed on behalf of any of the partners from liability to the creditors of the firm insert names of such partners and whether total or partial exemption is claimed.

Date of intended commencement of business or establishment of new place of business, if after the commencement of the Act.....

I declare that there are no partners of the said firm other than those above named.

Signed and declared at.....on the.....day of.....

Before me

(This Notice must be signed in the presence of the Registrar of Deeds, a Magistrate, Justice of the Peace, or Commissioner for Oaths).

SCHEDULE B. (b).

REGISTRATION OF FIRMS ACT, 1906.

(Form B.)—Notice of change in Constitution of Registered Firm.

We (or I) the undersigned (the members of the firm as reconstituted, or the new proprietor of the business as the case may be) hereby give notice that on the day of 19....., the following change took place in the constitution of

(a) See sec. 5, ante.

(b) See sec. 9, ante.

the firm (or person) registered in the name of....., that is **Act 35, 1906.**
to say :—

* A.B. retired from the firm.

* C.D. became a member of the firm.

* As the case may be.

DESCRIPTION OF A NEW MEMBER.

Full Name.	Usual Residence.	Other Occupation. Description and additions (if any).	If any exemption is claimed on behalf of any of the partners from liability to the creditors of the firm insert names of such partners and whether total or partial exemption is claimed.

Signed and declared at.....on the.....day of.....190 .
Before me.....

(This notice must be signed in the presence of the Registrar of Deeds, a Magistrate, Justice of the Peace, or Commissioner for Oaths).

SCHEDULE C. (a)

REGISTRATION OF FIRMS ACT, 1906.

(Form C.)—Notice of change of registered firm-name.

(In addition to Form A.)

The persons (or person) now registering are (or is) the persons (or person) who heretofore carried on business under the registered firm-name of.....which is abandoned as from the.....day of.....190 .

Place.....

Date

Signature.....

SCHEDULE D. (b)

DECLARATION UNDER THE FIRMS ACT, 1906.

I....., do hereby declare that the firm of....., for which a license as.....is required, contains no partner

(a) See sec. 10, ante.

(b) See sec. 12, ante.

Act 35, 1906. or partners other than those shown in the attached certificate (or certificates) issued by the Registrar of Deeds, and that all the partners so shown are now partners of the said firm.

(Signed) A. B.....

Declared before me at.....on the..... (date).

(Signed) C.....D.....

(The above declaration must be signed by, or under power of Attorney from, a member of the firm, in the presence of the licensing officer or authority, or before a Magistrate, Justice of the Peace, or Commissioner for Oaths).

SCHEDULE E. (a)

DECLARATION UNDER THE FIRMS ACT, 1906.

I,, do hereby declare that I am the only member of the firm of....., for which a license as is required, and that there are no partners in the said business.

(Signed) A. B.....

Declared before me at.....on the.....day of....., 190

(Signed) C. D.....

NOTE :—The above declaration must be signed by or under power of Attorney from the member of the firm in the presence of the licensing officer or authority, or before a Magistrate, Justice of the Peace, or Commissioner for Oaths.

SCHEDULE F (b)

DECLARATION UNDER THE FIRMS ACT, 1906.

I,....., do hereby declare that I am the sole proprietor of the business carried on in my name as....., for which a license is required, and that I have no partner or partners.

(Signed) A. B.....

Declared before me at.....on the.....day of....., 190

NOTE :—The above declaration must be signed by or under power of Attorney from the proprietor of the business, in the presence of the licensing officer, or authority, or before a Magistrate, Justice of the Peace, or Commissioner for Oaths.

(a) See sec. 12, ante.

(b) See sec. 12, ante.

FISH.

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Act No. 17, 1901 (a).

"To Amend the Fisheries Law, No. 21, 1884."

[19th August, 1901.]

BE IT ENACTED by the King's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. No person shall gather oysters, for the purposes of trade, without first obtaining from the Magistrate a license for that purpose: Provided that this prohibition shall not apply to persons gathering oysters merely for their own consumption. License to gather oysters.

2. The Magistrate may, in his discretion, but subject to an appeal to the Ministerial Head of his Department, refuse a license for any reason which he may consider sufficient, and no person shall be entitled as of right to obtain a license. Magistrate's discretion to refuse license.

3. Every license shall bear stamps to the value of One Pound Ten Shillings Sterling, and shall expire at the commencement of the next close season for oysters, and shall not be made use of during any part of a close season. Stamping and duration of license.

4. The rights under a license shall be exercised in conformity with the regulations under this Act, and any license may be cancelled by the Magistrate on proof of any breach of its conditions or of the law or regulations relating to oysters. Rights under license: Cancellation for breach.

5. No person shall be allowed to employ more than four persons for the purpose of gathering oysters under one license; but this shall not be deemed to prevent a person from taking out more than one license. Limit of persons employed.

6. No person shall injure or remove oyster spat, spawn, or cultch. Protection of spat, spawn, and cultch.

7. The Governor may from time to time, by Proclamation, make regulations for the purposes of Law No. 21, 1884, and of this Act: Such regulations may, amongst other things, provide for any of the following purposes:— Regulations

(a) See Act No. 31, 1906, sec. 4, post, operation of Act 31, 1906. See secs. 20, virtually repealing this Act so far as it 23, and 25 of the last mentioned statute might relate to any place within the in regard to oysters.

Act 17, 1901.

- (a) All matters relative to licenses under Section 7 of Law No. 21, 1884.
- (b) The form and conditions of oyster licenses.
- (c) The protection of oysters and oyster beds, and of spat, spawn, and cultch.
- (d) The mode to be observed, and the means to be used in the taking of oysters, the age, and sizes of oysters which may be taken, whether for private consumption or trade or otherwise, or offered or exposed for sale.

Unlawful possession of oysters.

8. Any person having in his possession oysters, the taking of which is forbidden, shall be deemed to be guilty of a contravention of this Act.

Burden of proof of lawful possession of fish or oysters.

9. If any person shall be charged with having fish or oysters in his possession contrary to the provisions of Section 16 of Law No. 21, 1884, or of this Act, or of the regulations, the burden of proving that such fish or oysters were lawfully taken shall rest with him.

Joint construction of Acts.

10. This Act and Law No. 21, 1884, shall be construed as one Act, and the word "fish" in Section 22 of the said Law shall be deemed to include oysters.

Coast Fisheries Act, 1906.

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Act No. 31, 1906.

"For the control, conservation and protection of Coast Fisheries."

[16th August, 1906.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. This Act may be cited as the "Coast Fisheries Act, 1906." Short title.
2. This Act shall come into force on the 1st day of January, 1907. Commencement.
3. This Act shall apply to the waters of the sea so far as the Colonial jurisdiction extends, and to all bays, creeks, lagoons, estuaries and rivers and streams on the coast and to the foreshores or banks thereof, so far as the highest spring tides extend, but not further inland. Application of Act.
4. Law No. 21, 1884, and any Laws and Acts amending the same shall cease to apply to any place within the operation of this Act. Amendment of former Laws and Acts.
5. The regulations made under the said Laws and Acts shall nevertheless remain in force in the places within the operation of this Act until revoked by regulations under this Act, save so far as they may be inconsistent with this Act, and any offence committed before the commencement of this Act may be prosecuted and dealt with as if this Act had not been passed. Regulations under former laws to remain in force until revoked.

Act 31, 1906.

Definitions.

Interpretation

6. The following terms where used in this Act and the regulations shall have the meanings set against them respectively:—

Fish: Every description of fish and of shell fish and aquatic animal which is found in the waters to which this Act applies, together with the ova, spawn or eggs thereof.

Coast Fishery: Any water or place to which this Act applies.

Fishing Boat: Every vessel of whatever size and in whatever way propelled which is used by any person in carrying on the business of a fisherman.

Minister: The Minister for the time being in charge of the department under which this Act is administered.

Fisheries Officer: The Officer charged with the administration of this Act (called the principal Fisheries Officer), and any Fisheries Inspector or other officer or constable for the time being engaged in the administration of this Act.

The Regulations: Regulations made under this Act.

Prescribed: Prescribed by this Act or the regulations.

Angle: Apparatus for capturing fish by means of hook and line with or without a rod.

Angling: Includes fishing with hook and line and the use of any rod or implements ordinarily used as accessories to such fishing.

Close Season: Any part of the year in which the taking of particular kinds of fish may be prohibited by an order of the Governor in Council.

Waters: Includes the rocks, beach and any place to which the water reaches at the highest tides.

Order: An order made under this Act by the Governor in Council.

Fisherman: Any person required by this Act to take out a license for catching or taking any description of fish found in the waters to which this Act applies.

7. It shall be unlawful to catch or take or to attempt to catch or take any description of fish with a net or other contrivance or implement or to use any such net, contrivance or implement, unless the particular license required by this Act has been taken out for each such thing.

Unlawful to fish without license.

This section shall not apply to angling save as is hereinafter specially provided (a). **Act 31, 1906.**

8. It shall be unlawful to use for the capture of fish any contrivance or sacking, canvas, wicker, cane, wire, net, or other material not being a net or implement of fishing provided for by this Act or the regulations. **Prohibited contrivances for capture of fish.**

A net or other contrivance or implement of fishing shall be deemed to be of unlawful construction if its construction or dimensions be such as to preclude the issue of a license therefor, of which the officer appointed for the issue of licenses shall judge, or if it be included in any description of prohibited contrivances for the capture of fish.

9. Any alteration of a licensed net or implement of fishing by changing its dimensions, by the addition of traps, pockets or bags, by the diminution of the gauge of mesh in any part thereof, or any other material alteration, shall *ipso facto* invalidate the license of such net or implement, and such net or implement shall thereafter be deemed to be unlicensed: Provided that the licensing officer may authorise any alteration of a licensed net or implement of fishing not inconsistent with the conditions of the license therefor. **Unlawful alteration of licensed net or implement.**

10. All applications for licenses under this Act shall be made in writing and shall fully describe the net or other contrivance or implement of fishing sought to be licensed and the particular object and place of use of the same. **Applications for licenses, how made.**

Licenses under this Act shall be issued in the name of the person taking out the same and shall not be transferable.

No license shall endure after the 31st day of December following the date of its issue. **Duration.**

11. No seine or other net shall be licensed for or used in any place except the open sea. No fish kraals shall be placed less than two hundred yards apart. **Seines: fish-Kraals.**

12. It shall be unlawful to take, kill or destroy any fish by means of poison, poisonous roots or stupefying substances, or by means of any explosive substances whatsoever. **Poisons prohibited.**

13. It shall be unlawful to take or attempt to take any description of fish by digging for the same with a spade, scoop or any other instrument: Provided that this restriction shall not be deemed to apply to the use of an approved implement for the capture of sea lice, cracker shrimps and sand crabs. **Digging prohibited.**

14. It shall be unlawful to remove or disturb or destroy the ova or spawn of fish: Provided that ova or spawn may be removed for scientific or other approved purposes with the **Removal of ova or spawn.**

(a) See sec 31, post.

Act 31, 1906. consent of the Minister, and on such conditions as he may require.

Eggs of turtle. 15. It shall be unlawful to take, disturb, or destroy the eggs of turtle except as may be provided in the regulations.

Unlawful acts during close season. 16. It shall be unlawful during a close season to disturb or to employ any method whatsoever of taking, catching or killing any fish specified in the Order declaring the close season, and any person found in possession of fish named in an Order declaring a close season during the currency of such Order shall be guilty of an offence: Provided that the Minister may authorise the capture of fish during the close season for scientific purposes or for the purposes of propagation.

"Red-bait" how to be taken. 17. The *Cynthia Præputialis*, locally known as "Red-Bait," may only be taken in small quantities for use by anglers as bait, and may not be taken for any other purpose.

Any person found taking or in possession of red-bait may be convicted of a contravention of this section unless he shows that he was acting lawfully.

Injuring or disturbing spawning bed. 18. Every person who injures or disturbs any spawning bed or any bank or shallow whereon the spawn of any fish may be deposited save as may be specially authorised by the Minister, or uses the roe or spawn of any fish for the purposes of bait, shall be guilty of an offence.

Fish to be returned to water if unlawfully caught. 19. Should any person while fishing catch any fish the capture of which is unlawful or not permitted by the license for the net or other contrivance employed, he shall forthwith return such fish alive or dead to the water.

Oysters. 20. No person shall gather oysters:—
 (a) Without a license in that behalf.
 (b) Below a size or age to be fixed by regulations under this Act.
 (c) By any method or with any implement other than the method or implement specified in the regulations under this Act.

Meaning of "gather." The word "gather" includes destroying or disturbing.
 No person shall disturb, injure or remove oyster spawn, spat or cultch.

Crabs, lobsters, &c. 21. No person shall use a crab pot or lobster pot or other form of trap for the capture of crabs, crayfish and lobsters, without a license in that behalf, and every pot or trap for which a license may be required shall be subject to the approval of the licensing officer.

Mussels. 22. No person shall take mussels for, or use them as ground bait,

23. The principal Fisheries Officer may, subject to the approval of the Minister, grant leases to suitable persons of approved waters for the purpose of oyster culture for such period and under such conditions as to extent of the culture area and rent to be paid therefor as may be provided for by the regulations.

Act 31, 1906.
Leases may be granted for oyster-culture.

The Government shall nevertheless have power to at any time resume and re-enter any leased waters should they be required for public purposes, in which case the lessee shall be entitled to compensation, to be decided by arbitration in the usual manner.

Leased culture areas may also be resumed in case it shall appear to the Department that the objects of the lease are from any cause within the control of the lessee not being fulfilled, in which event there shall be no claim for compensation.

24. No person shall trespass on any culture area leased under this Act, or in any way injure or destroy the property of the lessee, or do anything calculated to lessen or destroy the rights of the lessee, or anchor in or net or otherwise fish over such area: Provided that nothing in this section shall be taken to apply to persons lawfully passing over such areas in boats.

Trespass on culture area.

25. It shall be unlawful to prepare for market or trade or sell or expose for sale mussels or oysters except in their shells.

Mussels and oysters not to be sold except in their shells.

This section shall not, however, apply to the products of any factory licensed under this Act for the tinning, bottling, or preserving of fish, or for manufacturing them into any article of commerce licensed by Government.

The opening of oysters and mussels for tinning, bottling or preserving, except at such factory, shall be an offence.

26. This Act shall not apply to any fish not taken in the waters to which this Act relates, but the burden of proof that fish in respect of which any charge may be brought were taken elsewhere shall rest with the person charged.

Onus of proving where fish were taken.

27. A fisheries officer shall, in addition to any other duties which may be assigned to him, exercise the following powers:—

Powers of fisheries officer

- (a) He may effect the summary arrest of offenders.
- (b) He may board and search any fishing boat (a) and pursue any enquiry which he deems necessary to ascertain whether the provisions of this Act and the regulations are being complied with.
- (c) He may examine all nets and implements of fishing

(a) See definition of this term ante, sec. 6. It would seem not to include a boat used by an amateur angler; the power of search under this sub-sec. is therefore limited, but see sub-sec. (g) post. See also Sec. 31 post.

Act 31, 1906.

- on any fishing boat or other craft or found on any foreshore or elsewhere in or close to any coast fishery.
- (d) He may require the master or owner of any fishing boat to furnish at specified times a signed statement of the quantity of fish captured on each voyage of such vessel, and to state the place and method of capture of such fish.
- (e) He may require the master of any fishing-boat to give any explanation concerning his boat and her crew and any person on board and to afford any information reasonably demanded.
- (f) He may without warrant search for and seize any fish caught or taken in breach of this Act and the regulations in any premises or factory utilised for the storage, sale or manufacture of fish or any private premises or the premises of any railway or common carrier and may demand the production of consignment and delivery notes referring to any fish carried or about to be carried by any railway or common carrier.
- (g) He may seize all boats, nets and implements of fishing used or about to be used in breach of this Act and the regulations, and may in this behalf exercise powers of search similar to those conferred by sub-section (f).
- (h) He may seize all fish wheresoever found, caught, taken or removed in contravention of this Act or of the regulations, as well as any other fish with which they may have been placed or mixed in circumstances indicating a purpose of avoiding detection or otherwise evading the law.
- (i) He may seize and destroy any unlicensed (a) net or implement of fishing or any net or implement of fishing of unlawful construction or dimensions found on any foreshore or elsewhere in or close to a coast fishery.
- (j) He may enforce compliance with any notices posted on notice boards and the like for the purposes of this Act.
- (k) He may at any time demand the production by a licensee of his license or badge.

(a) Presumably this does not apply to implements of fishing for which no license is required,

- (l) He may cause the removal of any fixed obstructions in the nature of an implement or method of fishing. **Act 31, 1906.**
- (m) He may prosecute in all contraventions of the Act and of the regulations.

28. Any person who obstructs a fisheries officer in the pursuance of his duties or who refuses or neglects to comply with any direction lawfully given, or to answer any question lawfully asked, by any fisheries officer in the course of his duty, or who knowingly gives false or misleading information to a fisheries officer, shall be guilty of an offence. Obstruction of officer, neglect or refusal to comply with direction, &c.

29. Except as otherwise directed all seizures of fish boats, gear and implements of fishing shall be held by the Inspector or other officer until a judicial order be made regarding the disposal of such property, which order it shall be the duty of the officer to obtain as soon as possible. Seized property, how to be dealt with.

Orders relative to perishable articles or in the case of urgency may be made by a magistrate on application before the hearing of the principal case, and where such order cannot be obtained in time to prevent loss, the officer may take such action as appears suitable.

30. (1) The Governor in Council may from time to time by order published in the *Government Gazette*, appoint close seasons for any kinds of fish mentioned in the order. Close seasons to be appointed.

(2) If at any time it is considered necessary to give special protection to any kinds of fish the Governor in Council may, by order published as aforesaid, prohibit for any specified period, and either generally or at any specified places, the catching taking or disturbing of any kinds of fish mentioned in the order.

An order may at any time be made requiring a license for the taking of turtle, or make any provision which may be deemed expedient in regard to turtle and their eggs.

Any such order may be varied or revoked by a like order.

31. Every person who angles by way of business or trade, and Anglers by trade.

Every person, partnership or company carrying on the business of tinning, bottling, preserving or manufacturing fish, shall be required to take out an annual license subject to the prescribed conditions, and upon payment of the prescribed license fee. Canning and curing houses.

Persons who angle for pleasure, and not by way of trade or business, shall not be required to take out any license for the Anglers for pleasure.

Act 31, 1906. purpose, but shall otherwise be subject to any regulations which affect angling.

Regulations.

32. The Governor in Council may from time to time make and alter regulations for all purposes necessary for the efficient administration of this Act, and in particular for the following purposes :—

- (a) The licensing of nets, kraals and other contrivances and implements of fishing as regards any description of fish.
- (b) The character, dimensions and size of mesh of nets and the character, dimensions, form and construction of other contrivances and implements of fishing, either generally or in relation to any particular kinds of fish.
- (c) The licensing of fishermen and fishing boats, the employment by licensed fishermen of unlicensed assistants.
- (d) Licenses for the taking of mussels, crabs, lobsters, crayfish, shrimps, prawns, and of other shell fish.
- (e) Licenses for the culling of oysters, the preservation and protection of oyster beds and oyster bearing areas and areas set apart for the culture of oysters for any appointed term, the protection of the spat or spawn of oysters.
- (f) The granting of leases for the purpose of oyster culture and the protection of leased areas.
- (g) The conditions of and charges for licenses and leases, the procedure for obtaining the same, the restriction of the issue of licenses where there is occasion for such restriction, and generally all matters relative to licenses and leases, save as may be specially provided in this Act.
- (h) To regulate and control the use of nets and methods and implements of fishing generally, in waters to which this Act applies.
- (i) To declare unlawful such methods of capturing fish as may be deemed improper.
- (j) To determine protective measurements for fish fry and shell fish.
- (k) To preserve and protect coast fisheries or portions thereof in respect of any fish contained therein against any unlawful fishing or prohibited methods of fishing, to determine measures for the protection of spawn, of fish in spawn, of fry and of shell fish, and of any fish during a close season, and

generally all measures for preventing evasions or infringements of this Act and the regulations. **Act 31, 1906.**

(l) To define the duties and powers of fisheries officers.

33. The Principal Fisheries Officer shall be the officer for the issue of all licenses under this Act, and he shall, under the Minister, exercise authority over all other fisheries officers. **Officers.**

34. The word offence as used in this Act includes every contravention of this Act or of the regulations or of an order made under this Act, or the disobedience to or the disregard of any prescribed duty. **Meaning of "offence."**

35. (1) All offences shall be cognizable in the court of a magistrate. **Cognizance of offences.**

(2) Any person guilty of an offence shall, except as may be otherwise specially provided, be liable to a fine not exceeding £20, or in default of payment, to imprisonment with or without hard labour for a term not exceeding three months in the case of a first conviction, or six months in the case of a later conviction. **Penalties.**

(3) The court may in its discretion order the forfeiture of any nets or implements used in connection with the offence, and in the case of a second or subsequent conviction, may order the forfeiture of any boats or gear so used, but not beyond a value of £50.

(4) The court shall also have the discretion, upon a second or later conviction, or in any case in which having regard to the circumstances the court is of opinion that a fine would be inadequate as a deterrent, to adjudge such imprisonment as aforesaid without the option of a fine.

36. Any person authorised to prosecute under this Act may, in place of prosecuting for an offence, elect to sue in a magistrate's court for the whole or any part of the appointed fine, and in such case the court shall not decree any forfeitures nor shall the license which may be held by the person sued be cancelled (a). **Person authorised to prosecute may sue for fine.**

37. (1) In case of any illegal use of a fishing boat or net or other implement of fishing each of the persons **Persons liable to be proceeded against.**

(a) Although this section gives a right to sue, there appears to be nothing in the Act giving a right to recover the fine sued for. It is submitted that where there is no right of action at common law, the statutory right must be clearly enacted. To sue is one thing; to have a right of action on which judgment may be given for the sum claimed is another.

Act 31, 1906.

composing the boat's crew and each of the persons employed in operating the net or implement of fishing as well as the licensee of the boat or implement of fishing shall be liable to be severally proceeded against for the offence.

- (2) Where upon any charge it is made to appear that a boat or net or any other implement or contrivance is being used or carried in circumstances indicating that it was being employed for the purpose of any contravention of this Act or of a regulation or order, even though such purpose may not have been actually effected, all the persons concerned shall be liable to be convicted of an offence unless it be shown to the satisfaction of the court that no such contravention as aforesaid was committed or intended.

When fishing boat deemed to be illegally used.

38. A fishing boat shall be deemed to be illegally used if employed without a license, or without complying with the conditions of the license, or if engaged in the capture of fish in prohibited waters or by any prohibited means, or at a prohibited time, or if employed for shooting or drawing an unlicensed net or a net that does not comply with the conditions of the license referring to such net, or if found to contain fish whose capture is prohibited, or if containing or contributing to the use of any explosive substance or of any prohibited or unlicensed implement of fishing.

Cancellation of license on conviction.

39. Any license held by a person convicted of an offence relating to the thing licensed or to the purpose of the license shall be annulled by the conviction, and the court shall order such person to deliver up his license to be cancelled.

The granting of a new license for the period covered by the former license, or within one year after the date on which the former license would have expired shall be in the discretion of the licensing officer, subject to an appeal to the Minister.

Fish seized, how dealt with.

40. Fish adjudged to be unlawfully taken may be ordered by the Magistrate to be destroyed, returned to the water, or otherwise disposed of, together with any other fish with which they were on seizure found or mixed.

Unlawful possession: onus of proof.

41. Any person knowingly receiving or having in his possession any fish, fish ova, or turtle eggs unlawfully taken shall be guilty of an offence. The burden of showing that such receiving or possession was without knowledge of any illegality shall rest upon the person found to have received or had such things in his possession.

42. All persons aiding or abetting an offence may be tried and convicted or sued and condemned in the same manner as the principal offender, and whether the principal offender shall or shall not have been charged or sued. **Act 31, 1906.**
Accomplices.

43. The court may order not more than one-half of any fine imposed to be paid to the person or persons by whose information the offender may have been brought to justice, subject, however, to any regulation or departmental instruction regarding persons in public employ. **Award to informer.**

FISHING-VESSELS.

[See "SHIPPING."]

FOOD AND DRUGS (ADULTERATION).

[See "PUBLIC HEALTH."]

Adulteration of Food Act, 1901.

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Act No. 45, 1901.

“To amend the Law relating to the Adulteration and Fraudulent Sale of Food and Drugs.”

[9th September, 1901.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

PART I.

Preliminary.

1. This Act may be known as the “Adulteration of Food Act, 1901” (*a*). Short title.

2. Act No. 26 of 1898 is hereby repealed: Provided that any contravention of any by-law thereunder committed before the commencement of this Act may be prosecuted and punished as if the said Act had not been repealed. Repeal.

3. In this Act, unless the context otherwise requires:—

The word “Food” includes every article used for food or drink by man other than drugs or water, and any article which ordinarily enters into or is used in the composition or preparation of human food; and also includes flavouring matters and condiments (*b*).

Interpretation
of terms.

The word “Butter” means the substance usually known as butter, made exclusively from milk or cream, or both, with or without salt or other preservative, and with or without the addition of any colouring matter (*c*).

The word “Cheese” means the substance usually known as cheese, containing no fat derived otherwise than from milk.

The word “Margarine” means all substances, whether compounds or otherwise, prepared in imitation of butter, and whether mixed with butter or not.

The word “Drug” includes medicine for internal or external use.

The word “Importer” includes any person who, whether as owner, consignor or consignee, agent or broker,

(*a*) This Act is modelled from the Imperial Statutes, 38 and 39 Vic. c. 63 (the Sale of Food and Drugs Act, 1875) and “The Margarine Act, 1887.”

(*b*) This definition is wider than that of the English Act, Cf. 38 and 39 Vic., c. 63, s. 2.

(*c*) Cf. 50 and 51 Vic., c. 29, s. 3.

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is in possession of or in any wise entitled to the custody or control of an article imported into this Colony by land or sea.

The word "Town" means a municipal borough or a township constituted under Law No. 11, 1881, or any like Act.

The word "Minister" means the Minister having charge of the Department of Agriculture.

The expression "Government Analyst" means any person in the service of the Government as an analyst or analytical chemist, or specially appointed by the Minister to analyse foods or drugs.

PART II.

Adulteration and other Offences. Importation and Sale of Food and Drugs.

Adulterating food.

4. No person shall mix, colour, stain, or powder, or order or permit any other person to mix, colour, stain, or powder any article of food with any ingredient or material, so as to render the article injurious to health, with intent that the same may be sold in that state, and no person shall sell any such article so mixed, coloured, stained, or powdered (a).

Adulterating drugs.

5. No person shall, except for the purpose of compounding as hereinafter described, mix, colour, stain, or powder or order or permit any other person to mix, colour, stain, or powder any drug with any ingredient or material so as to affect injuriously the quality or potency of such drug, with intent that the same may be sold in that state, and no person shall sell any such drug so mixed, coloured, stained, or powdered (b).

Grounds of excuse for selling adulterated food or drugs.

6. No person shall be liable to be convicted under either of the two last foregoing sections in respect of the sale of any article of food, or of any drug, if he shows to the satisfaction of the Court that he did not know of the article of food or drug sold by him being so mixed, coloured, stained, or powdered as aforesaid, and that he could not with reasonable diligence have obtained that knowledge.

Sale of food or drugs to prejudice of purchaser

7. No person (c) shall sell, to the prejudice of the pur-

(a) This corresponds with sec. 3 of 38 and 39 Vic. c. 63.

(b) This corresponds with sec. 4 of 38 and 39 Vic. c. 63.

(c) Including the servant (*Hotchin v. Hindmarsh* (watered milk), [1891] 2 Q. B., 181); and the master, though the

servant sells (*Brown v. Foot*, 61 L. J., M. C., 110), unless sale forbidden by master (*Kearley v. Tonge*, 60 L. J., M. C., 159). See these cases referred to in *Caldwell v. Inspector of Nuisances, Durban* (24 N. L. R., 181) where *Brown v. Foot* was followed.

chaser (a), any article of food, or any drug, which is not of the nature, substance, and quality (b) of the article demanded by such purchaser (c) : Provided that an offence shall not be deemed to have been committed under this section in the following cases :—

- (a) Where any matter or ingredient not injurious to health has been added to the food or drug, because the same is required for the production or preparation thereof as an article of commerce, in a state fit for carriage or consumption, and not fraudulently to increase the bulk, weight, or measure of the food or drug, or conceal the inferior quality thereof ;
- (b) Where the food or drug is a proprietary medicine, or is the subject of a patent in force, and is supplied in the state required by the specification of the patent ;
- (c) Where the food or drug is compounded as in this Act is mentioned ;
- (d) Where the food or drug is unavoidably mixed with some extraneous matter in the process of collection or preparation.

A drug shall be deemed to be sold to the prejudice of the purchaser :—

- (e) If being sold under the name given to a drug in the British Pharmacopœia, it is not of the strength, quality, or purity of the standard prescribed by the British Pharmacopœia.
- (f) If it is professedly sold as being of any strength or purity, and its strength or purity are not as represented.

When drug deemed to be sold to prejudice of purchaser.

No person shall sell any compound article of food or compounded drug not composed of ingredients in accordance with the demand of the purchaser.

Compound foods and compounded drugs.

(a) If with the knowledge of the purchaser, no offence is committed (*Sandys v. Small* (spirits), 3 Q. B. D., 419; 39 L. T., 118); but knowledge of the seller is not an ingredient of the offence (*Betts v. Armstead* (bread with alum in it), 20 Q. B. D., 771; 58 L. T., 811). But see sec. 28, post.

(b) See *White v. Bywater* (tincture of opium), 19 Q. B. D., 582. See also sec. 28 post.

(c) It is a question of fact whether the article sold is what the purchaser would reasonably expect to get (*Webb v. Knight* (gin), 2 Q. B. D., 530). The

representation of the seller must be at the time of sale, and its truth then is not vitiated by a prior false one (*Kirk v. Coates* (milk), 16 Q. B. D., 49).

This section corresponds to sec. 6 of the Imperial Act. The latter enactment is said to apply to the sale of an adulterated article wholly different from that demanded, as where saffron is demanded and savin given (*Knight v. Bowers*, 14 Q. B. D., 845), but not to a sale of skimmed milk where milk was demanded (*Knight v. Collins*, 14 Q. B. D., 845; 54 L. J., M. C., 76; 53 L. T. 234).

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Liability in certain cases avoided by affixing label stating that food or drug is mixed.

8. No person shall be guilty of any such offence as aforesaid in respect of the sale of an article of food or a drug mixed with any matter or ingredient not injurious to health, and not intended fraudulently to increase its bulk, weight or measure, or conceal its inferior quality, if at the time of delivering such article or drug he shall supply to the person receiving the same a notice, by a label conspicuously and legibly written or printed on or with the article or drug, to the effect that the same is mixed (a).

Abstracting part of food so as to deteriorate it.

9. No person shall, with the intent that the same may be sold in its altered state without notice, abstract from an article of food any part of it so as to affect injuriously its quality, substance, or nature, and no person shall sell any article so altered without making disclosure of the alteration (b).

Importation of margarine, adulterated or impoverished butter, milk, &c.

10. If there is imported into Natal any of the following articles, namely:—

(a) Margarine, except in packages conspicuously marked “Margarine,” or

(b) Adulterated or impoverished butter (other than margarine), milk, or cream, or other article of food to which the Governor may by Proclamation direct that this section shall apply, except in packages or cans conspicuously marked with a name or description indicating that the butter or milk or cream or other article has been so treated,

the importer shall be guilty of a contravention of this Act.

For the purposes of this section an article of food shall be deemed to be adulterated or impoverished if it has been mixed with any other substance, or if any part of it has been abstracted, so as in either case to affect injuriously its quality, substance or nature.

Margarine, sale of.

11. No substance coming within the definition of margarine (c) shall be sold except under the name of margarine, and

(a) A public notice, if seen by the purchaser, as that diluted spirits are sold, will equally protect the seller (*Sandys v. Small*, 3 Q. B. D., 449.)

(b) Notwithstanding that a person cannot in the ordinary sense “disclose” what he does not know, it has been held that a person selling the altered article can be convicted though he does not know of the alteration (*Pain v. Boughtwood*) (skimmed milk), 24 Q. B. D., 353, followed with approval in *Dyke v. Gower* [1892], 1 Q. B., 220; 65 L. T., 760; in which unstirred milk was sold to the growing detriment of the later pur-

chasers. See also *Jones v. Davies*, 69 L. T., 497.

(c) See definition in sec. 3, ante. With reference to the definition there given (which is taken from sec. 3 of “The Margarine Act, 1887”) it has been questioned whether the words “in imitation” mean “in fraudulent imitation,” or merely “prepared so as to resemble.” The learned editor of “Chitty’s Statutes” conceives the word “imitation” to point to an intent, and quotes the rule *actus non facit reum nisi mens rea sit*.

under the conditions prescribed by this Act, or by the by-laws thereunder. **Act 45, 1901.**

12. Every person manufacturing, importing or dealing in margarine shall conform to the following regulations : **Regulations regarding margarine.**

Every package, parcel, or vessel, whether open or closed, containing margarine, shall be conspicuously marked "margarine" on the top, bottom and sides, in printed capital letters, and every person selling margarine by retail, save in a package duly marked as aforesaid, shall in every case deliver the same to the purchaser in a paper wrapper, on which shall be conspicuously printed "margarine" in capital letters.

13. The Governor in Council may, after such enquiry as he may deem necessary, make regulations for determining what deficiency in any of the normal constituents of genuine milk, cream, butter, or cheese, or what addition of extraneous matter or proportion of water, in any sample of milk (including condensed milk), cream, butter or cheese, shall for the purposes of this Act raise a presumption, until the contrary is proved, that the milk, cream, butter, or cheese is not genuine, or is injurious to health, and an analyst shall have regard to such regulations in certifying the result of an analysis. **Regulations for determining what shall create a presumption that milk, cream, butter, or cheese is not genuine, or is injurious.**

14. Every person shall be guilty of a contravention of this Act who, in respect of an article of food or drug sold by him as principal or agent, gives to the purchaser a false warranty in writing, or gives with the article sold a label falsely describing the same. **False warranty or label.**

PART III.

Analysts.

15. (1) The Town Council of any town may appoint one or more persons possessing competent knowledge, skill and experience, as analysts of all articles of food and drugs sold within such town, and shall pay to such analyst such salary or allowance as they may think fit. **Town Analysts.**

(2) A person so appointed is hereinafter called the town analyst.

(3) In the case of towns not being Municipal Boroughs, provision for analyses shall be made by the Minister.

(4) Nothing in this section shall be deemed to require that a town analyst shall be resident in the town for which he is appointed.

(5) If there be no appointed analyst for any town, the submission of samples to a Government analyst, who may be willing and permitted to analyse the same, and any certificate

Act 45, 1901. given by him shall have the same authority as if he were an appointed town analyst.

Meaning of
"proper
officer"

16. For the purposes of the following sections relative to the taking of samples the expression "proper officer" means:—

(a) Any district surgeon or health officer, any officer appointed by Government, and charged with the execution of this Act, and any person authorised thereto by the regulations under this Act;

(b) Any police officer or a police constable acting under the direction of a police officer;

(c) In a town, any person charged by the Town Council with the execution of this Act, or authorised thereto by the by-laws;

and the expression "analyst" means

and of
"analyst."

(d) In the case of samples taken by a proper officer on behalf of Government, a Government analyst;

(e) In the case of samples taken by the proper officer of a town, a town analyst.

Procuring and
analysing
samples.

17. A proper officer may procure any sample of food or drugs, and if he suspect the same to have been sold to him contrary to any provisions of this Act, or of the regulations or by-laws, shall submit the same to be analysed by the public analyst, and such analyst shall, with all convenient speed, analyse the same, and give a certificate of such analysis to such officer, wherein he shall specify the result of the analysis.

The provisions of this section shall also apply to the procuring at the place of delivery (a) of samples of milk, or any other article of food in course of delivery to the purchaser or consignee, in pursuance of any contract for the sale to such purchaser or consignee.

Refusal to sell
for analysis.

18. If a proper officer shall apply to purchase any article of food, or any drug exposed to sale, or on sale by retail (b) on any premises, or in any shop or stores, or in any street or place of public resort, and shall tender the price for the quantity which he shall require for the purpose of analysis, not being more than shall be reasonably requisite, and the person exposing the same for sale shall refuse to sell the same to such officer, such person shall be liable to a penalty not exceeding Ten Pounds.

(a) Cf. 42 and 43 Vic. c. 30, Sec. 3, and see *Filspie v. Evington*, [1892] 2 Q.B., 200; 66 L.T. 199; 40 W.R. 380.

(b) This section applies to wholesale as well as retail dealers, the distinction being that where there is a sale by a wholesale dealer there must be "expo-

sure," whilst in the case of a sale by retail it is sufficient if the article be "on sale." See *Inspector of Nuisances, Durban, v. Gundelfinger* (2 N.J.J., 237) distinguishing *Crane v. Lawrence* (25 Q.B.D., 152), and defining the term "exposed to sale."

19. Any person who wilfully obstructs or impedes a proper officer in the course of his duties, or by any gratuity, bribe, promise, or other inducement, prevents or attempts to prevent the due execution of his duty, shall be guilty of a contravention of this Act.

Act 45, 1901.
Obstructing an officer.

20. Any purchaser of an article of food or a drug shall be entitled on payment of a sum not exceeding ten shillings and sixpence to the town funds, in the case of an article purchased in a town, and in the case of a purchase elsewhere, to the Government analyst of the district if such analyst has been appointed, to have such article analysed by such analyst, and to receive from him a certificate of the results of such analysis. Such certificate shall be in the form of the Schedule to this Act, or to the like effect (a).

Right of purchaser to obtain analysis.

Certificate of analysis.

21. The procedure for obtaining an analysis shall be as follows:—

Procedure for obtaining analysis.

The purchaser (b) shall, after the purchase has been completed, forthwith notify (c) to the seller, or his agent selling the article, his intention to have the same analysed by the public analyst, and shall offer to divide the article into three parts, to be then and there separated, and each part to be marked and sealed or fastened up in such manner as its nature will permit, and shall, if required to do so, deliver one of the parts to the seller or his agent.

He shall afterwards retain one of the said parts for future comparison, and submit the third part, if he deems it right to have the article analysed, to the analyst.

PART IV.

Regulations and By-Laws.

22. The Governor in Council may from time to time make regulations for carrying out the purposes of this Act, and for all matters not specially provided for in this Act, which may be necessary for giving full and complete effect to the provisions of this Act.

Regulations for purposes of this Act.

A Town Council may from time to time make by-laws in the manner prescribed by law for carrying out the purposes of

By-laws.

(a) See *Bakewell v. Davis*, [1894] 1 Q. B., 296; *Newby v. Smith*, *ib.*, 478.

(b) Cf. sec. 14 of 38 and 39 Vic. c. 63, and see *Parsons v. Birmingham Dairy Co.*, 9 Q. B. D., 172; 30 W. R., 748, dissented from in the Irish case of *Ennis-killen Union v. Hilliard*, 14 L. R. Ir., 214.

(c) This notification has been held in England to be a condition precedent to a prosecution, and a conviction was quashed where the terms of the sec. were not strictly complied with (*Barnes v. Chipp*, 3 Ex. D., 177; 47 L. J., M. C. 85.)

Act 45, 1901. this Act within the town, and for all matters not specially provided for in this Act which may be necessary for giving full and complete effect to the objects and intention of this Act within the town; but so that they be not in derogation of the lawful authority of Government.

Contravention
of Regulations
and By-laws.

Such regulations or by-laws may provide punishments for any contravention thereof, not exceeding the punishments hereinafter provided for contraventions of this Act for a first offence, and for subsequent offences respectively.

PART V.

Legal Proceedings.

Jurisdiction.

23. All contraventions of this Act or of the regulations shall be cognisable in the Courts of Magistrates.

Prosecution
under By-
laws.

24. All contraventions of the by-laws under this Act shall be prosecuted and tried in the manner provided for the prosecution and trial of offences under the ordinary by-laws of towns.

Prosecution
for offences in
towns.

All offences committed in towns, and cognisable by the Magistrates' Courts may be prosecuted on behalf of the town authorities by any person authorised to prosecute offences under the by-laws, but without prejudice to any right of prosecution on behalf of the Crown for offences other than those under by-laws.

Punishment of
offences.

25. Any person guilty of a contravention of this Act, for which no other punishment is specially provided, shall be liable

For a first offence, to a fine not exceeding Twenty Pounds, with the alternative of imprisonment, with or without hard labour, for not more than one month.

For a second or subsequent offence, to a fine not exceeding Fifty Pounds, with the alternative of imprisonment, with or without hard labour, for not more than three months.

In the case of a second or subsequent conviction, if the offence, in the opinion of the Court, was committed by the personal act, default, or culpable neglect of the accused, and if the Court is of opinion that a fine will not meet the circumstances of the case, such person shall be liable to imprisonment as last aforesaid, without the option of a fine.

Production of
certificate of
analysis in
evidence.

26. In any prosecution under this Act, or under the regulations or by-laws, the production of the certificate of the public analyst in the prescribed form shall be sufficient evidence of the facts therein stated, unless the defendant requires that the analyst shall be called as a witness.

Grounds of
defence.

27. If the defendant in any prosecution proves to the satisfaction of the Court that he purchased the article in question as

the same in nature, substance, and quality as that demanded of him by the purchaser, and with a written warranty or invoice to that effect, that he had no reason to believe at the time that he sold it that the article was otherwise, and that he sold it in the same state as when he purchased it, he shall be discharged from the prosecution (a). Act 45, 1901.

If the person charged be an employee, he may avail himself of proof that his employer purchased the article as aforesaid.

28. In any prosecution for selling any article to the prejudice of the purchaser, it shall be no defence to allege that the purchaser, having bought only for analysis, was not prejudiced by such sale. Neither shall it be a good defence to prove that the article of food or drug in question, though defective in nature, or in substance, or in quality, was not defective in all three respects. Disallowance of certain grounds of defence.

PART VI.

Miscellaneous.

29. The expense of executing this Act in any town shall be borne by the funds of such town, and all fines recovered for contravention of the town by-laws, or for any offences prosecuted on behalf of the town as hereinbefore provided, shall be paid to the funds of the town. Town funds to bear cost and receive fines.

30. Nothing in the preceding section shall be deemed to impose upon a town the expense of acts done or appointments made on behalf of the Government in the course of the general administration of the Act, or the expense of public prosecutions on behalf of the Crown. Saving as to cost of Government Acts and prosecutions.

SCHEDULE.

Form of Certificate.

To.....(*insert name of person submitting article for analysis*).

I, the undersigned, public analyst for the.....do hereby certify that I received on the.....day of.....19....

(a) This section is adapted from 38 & 39 Vic. c. 63 (sec. 25) the "Sale of Food and Drugs Act, 1875." Its application in the Imperial Statute would be only to prosecutions for offences under that Act; it would have no reference to sales of margarine. The Natal statute, however, blends the provisions of the "Sale of Food and Drugs Act, 1875," and "The Margarine Act, 1887," so that

the above section applies to a prosecution for selling margarine as well as to a prosecution for adulterating food. If, therefore, the "article in question" be margarine it would appear that a seller prosecuted for contravening sec. 12 could plead the exception given in sec. 27, namely that he purchased it *as margarine* from someone else. Compare sec. 7 of 50 and 51 Vic. c. 29.

Act 45, 1901. from.....(*Insert name of person delivering sample*)
 a sample of.....for analysis (which then weighed
), (*When the article cannot be conveniently
 weighed, this passage may be erased, or the blank may be left
 unfilled*), and have analysed the same, and declare the result of
 my analysis to be as follows :—

I am of opinion that the same is a sample of genuine

Or

I am of opinion that the said sample contained the parts as under,
 or the percentage of foreign ingredients as under :

Observations *

As witness my hand this.....day of.....

A.B.,

at.....

* Here the analyst may insert at his discretion his opinion
 as to whether the mixture (if any) was for the purpose of render-
 ing the article portable or palatable, or of preserving it, or of
 improving the appearance, or was unavoidable, and may state
 whether in excess of what is ordinary, or otherwise, and whether
 the ingredients or materials mixed are or are not injurious to
 health.

In the case of a certificate regarding milk, butter, or any
 article liable to decomposition, the analyst shall specially report
 whether any change had taken place in the constitution of the
 article that would interfere with the analysis.

FOREIGN DOCUMENTS.

[See "COURTS (SUPREME)."]

FOREIGN ENLISTMENT.

Act No. 26, 1906.

“To extend the Foreign Enlistment Act, 1870, to the Province of Zululand and the Northern Districts of Natal.”

[10th August, 1906.]

WHEREAS by an Act of the Imperial Parliament of Great Britain and Ireland passed in the 33rd and 34th year of the reign of Her late Majesty Queen Victoria, and known as the Foreign Enlistment Act, 1870, it is enacted that the said Act shall come into operation in every British Possession upon being proclaimed by the Governor thereof :

AND WHEREAS the said Act was brought into force in the Colony of Natal by proclamation of the Lieutenant-Governor bearing date the 21st day of October, 1870 :

AND WHEREAS since the date of the said proclamation certain territories have been added to this Colony, to wit the districts known as the Province of Zululand, formerly the Territory of Zululand, and the Northern Districts, formerly a part of the Territory of the South African Republic, and it is expedient to declare that the said Act shall be of force in the said Districts :

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. The above recited Act of the Imperial Parliament of Great Britain and Ireland known as the Foreign Enlistment Act, 1870, a copy whereof forms the Schedule of this Act, shall from and after the commencement of this Act be of force and operation throughout the whole Colony of Natal, including the Districts of Natal known as the Province of Zululand and the Northern Districts.

SCHEDULE.

[33 and 34 Victoria, 1870, Chap. 90.]

An Act to regulate the conduct of Her Majesty's Subjects during the existence of hostilities between Foreign States with which Her Majesty is at peace. [9th August, 1870.]

WHEREAS, it is expedient to make provision for the regulation of the conduct of Her Majesty's subjects during the

Act 26, 1906. existence of hostilities between foreign States with which Her Majesty is at peace :

BE IT ENACTED, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

Preliminary.

- Short title. 1. This Act may be cited for all purposes as "The Foreign Enlistment Act, 1870."
- Application of Act. 2. This Act shall extend to all the dominions of Her Majesty, including the adjacent territorial waters.
- Commencement. 3. This Act shall come into operation in the United Kingdom immediately on the passing thereof, and shall be proclaimed in every British possession by the Governor thereof as soon as may be after he receives notice of this Act, and shall come into operation in that British possession on the day of such proclamation, and the time at which this Act comes into operation in any place, is, as respects such place, in this Act referred to as the commencement of this Act.

Illegal Enlistment.

- Penalty on enlistment in service of foreign state. 4. If any person without the license of Her Majesty, being a British subject, within or without Her Majesty's dominions, accepts or agrees to accept any commission or engagement in the military or naval service of any foreign State at war with any foreign State at peace with Her Majesty, and in this Act referred to as a friendly State, or whether a British subject or not within Her Majesty's dominions, induces any other person to accept or agree to accept any commission or engagement in the military or naval service of any such foreign State as aforesaid,—

He shall be guilty of an offence against this Act, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour.

- Penalty on leaving Her Majesty's dominions with intent to serve a foreign state. 5. If any person without the license of Her Majesty, being a British subject, quits or goes on board any ship with a view of quitting Her Majesty's dominions, with intent to accept any commission or engagement in the military or naval service of any foreign State at war with a friendly State, or, whether a British subject or not, within Her Majesty's dominions, induces any

other person to quit or to go on board any ship with a view of quitting Her Majesty's dominions with the like intent,— **Act 26, 1906.**

He shall be guilty of an offence against this Act, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour.

6. If any person induces any other person to quit Her Majesty's dominions or to embark on any ship within Her Majesty's dominions under a misrepresentation or false representation of the service in which such person is to be engaged, with the intent or in order that such person may accept or agree to accept any commission or engagement in the military or naval service of any foreign State at war with a friendly State,— **Penalty on embarking persons under false representations as to service.**

He shall be guilty of an offence against this Act, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour.

7. If the master or owner of any ship, without the license of Her Majesty, knowingly either takes on board, or engages to take on board, or has on board such ship within Her Majesty's dominions any of the following persons, in this Act referred to as illegally enlisted persons; that is to say,— **Penalty on taking illegally enlisted persons on board ship.**

- (1) Any person who, being a British subject within or without the dominions of Her Majesty, has, without the license of Her Majesty, accepted or agreed to accept any commission or engagement in the military or naval service of any foreign State at war with any friendly State :
- (2) Any person, being a British subject, who, without the license of Her Majesty, is about to quit Her Majesty's dominions with intent to accept any commission or engagement in the military or naval service of any foreign State at war with a friendly State :
- (3) Any person who has been induced to embark under a misrepresentation or false representation of the service in which such person is to be engaged, with the intent or in order that such person may accept or agree to accept any commission or engagement

Act 26, 1906.

in the military or naval service of any foreign State at war with a friendly State :—

Such master or owner shall be guilty of an offence against this Act, and the following consequences shall ensue ; that is to say,—

- (1) The offender shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted ; and imprisonment, if awarded, may be either with or without hard labour ; and
- (2) Such ship shall be detained until the trial and^s conviction or acquittal of the master or owner, and until all penalties inflicted on the master or owner have been paid, or the master or owner has given security for the payment of such penalties to the satisfaction of two justices of the peace, or other magistrate or magistrates having the authority of two justices of the peace ; and
- (3) All illegally enlisted persons shall, immediately on the discovery of the offence, be taken on shore, and shall not be allowed to return to the ship.

Illegal Ship Building and Illegal Expeditions.

Penalty on illegal ship-building and illegal expeditions.

8. If any person within Her Majesty's dominions, without the license of Her Majesty, does any of the following acts ; that is to say,—

- (1) Builds, or agrees to build, or causes to be built, any ship with intent or knowledge, or having reasonable cause to believe that the same shall or will be employed in the military or naval service (a) of any foreign State at war with any friendly State : or
- (2) Issues or delivers any commission for any ship with intent or knowledge, or having reasonable cause to believe that the same shall or will be employed in the military or naval service of any foreign State at war with any friendly State : or
- (3) Equips any ship with intent or knowledge, or having reasonable cause to believe that the same shall or will be employed in the military or naval service of any foreign State at war with any friendly State : or
- (4) Despatches, or causes or allows to be despatched, any ship (b) with intent or knowledge, or having

(a) As to military telegraphy, see *The International*, L. R., 3 A. and E., 321.

(b) This includes a steam-tug employed to tow a prize of war (*The Gauntlet*, L. R., 4 P. C., 184.)

reasonable cause to believe that the same shall or will be employed in the military or naval service of any foreign State at war with any friendly State: Act 26, 1906.

Such person shall be deemed to have committed an offence against this Act, and the following consequences shall ensue:—

- (1) The offender shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour.
- (2) The ship in respect of which any such offence is committed, and her equipment, shall be forfeited to Her Majesty (a):

Provided that a person building, causing to be built, or equipping a ship in any of the cases aforesaid, in pursuance of a contract made before the commencement of such war as aforesaid, shall not be liable to any of the penalties imposed by this section in respect of such building or equipping if he satisfies the conditions following; (that is to say.)

- (1) If, forthwith upon a proclamation of neutrality being issued by Her Majesty, he gives notice to the Secretary of State that he is so building, causing to be built, or equipping such ship, and furnishes such particulars of the contract and of any matters relating to, or done, or to be done under the contract, as may be required by the Secretary of State:
- (2) If he gives such security, and takes and permits to be taken such other measures, if any, as the Secretary of State may prescribe for ensuring that such ship shall not be despatched, delivered, or removed without the license of Her Majesty until the termination of such war as aforesaid.

9. Where any ship is built by order of or on behalf of any foreign State when at war with a friendly State, or is delivered to or to the order of such foreign State, or any person who, to the knowledge of the person building, is an agent of such foreign State, or is paid for by such foreign State, or such agent, and is employed in the military or naval service of such foreign State, such ship shall, until the contrary is proved, be deemed to have been built with a view to being so employed, and the burden shall lie on the builder of such ship of proving that he did not know that the ship was intended to be so employed in the military or naval service of such foreign State.

Presumption
as to evidence
in case of
illegal ship.

(a) As to the release of ship on bail, see *The Gauntlet*, ubi supra.

Act 26, 1906.

10. If any person within the dominion (a) of Her Majesty, and without the license of Her Majesty,—

Penalty on aiding the warlike equipment of foreign ships.

By adding to the number of the guns, or by changing those on board for other guns, or by the addition of any equipment for war, increases or augments, or procures to be increased or augmented, or is knowingly concerned in increasing or augmenting the warlike force of any ship which at the time of her being within the dominions of Her Majesty was a ship in the military or naval service of any foreign State at war with any friendly State,—

Such person shall be guilty of an offence against this Act, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour.

Penalty on fitting out naval or military expeditions without license.

11. If any person within the limits of Her Majesty's dominions, and without the license of Her Majesty,—

Prepares or fits out any naval or military expedition to proceed against the dominions of any friendly State, the following consequences shall ensue :

(1) Every person engaged in such preparation or fitting out, or assisting therein, or employed in any capacity in such expedition, shall be guilty of an offence against this Act, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour.

(2) All ships and their equipments, and all arms and munitions of war, used in or forming part of such expedition, shall be forfeited to Her Majesty.

Accessories.

12. Any person who aids, abets, counsels, or procures the commission of any offence against this Act, shall be liable to be tried and punished as a principal offender.

Limit of term of imprisonment.

13. The term of imprisonment to be awarded in respect of any offence against this Act shall not exceed two years.

Illegal Prizes.

Illegal prize brought into British ports, restored.

14. If, during the continuance of any war in which Her Majesty may be neutral, any ship, goods, or merchandise captured

(a) In "Chitty's Statutes" this reads "dominions."

as prize of war within the territorial jurisdiction of Her Majesty, **Act 26, 1906.**
 in violation of the neutrality of this realm, or captured by any ship which may have been built, equipped, commissioned, or despatched, or the force of which may have been augmented, contrary to the provisions of this Act, are brought within the limits of Her Majesty's dominions by the captor, or any agent of the captor, or by any person having come into possession thereof, with knowledge that the same was prize of war so captured as aforesaid, it shall be lawful for the original owner of such prize, or his agent, or for any person authorised in that behalf by the Government of the foreign State to which such owner belongs, to make application to the Court of Admiralty for seizure and detention of such prize, and the court shall, on due proof of the facts, order such prize to be restored.

Every such order shall be executed and carried into effect in the same manner, and subject to the same right of appeal, as in case of any order made in the exercise of the ordinary jurisdiction of such court; and in the meantime, and until a final order has been made on such application, the court shall have power to make all such provisional and other orders as to the care or custody of such captured ship, goods, or merchandise, and (if the same be of perishable nature, or incurring risk of deterioration) for the sale thereof, and with respect to the deposit or investment of the proceeds of any such sale as may be made by such court in the exercise of its ordinary jurisdiction.

General Provision.

15. For the purposes of this Act, a license by Her Majesty shall be under the sign manual of Her Majesty, or be signified by Order in Council or by proclamation of Her Majesty.

License by
Her Majesty,
how granted.

Legal Procedure.

16. Any offence against this Act shall, for all purposes of and incidental to the trial and punishment of any person guilty of any such offence, be deemed to have been committed either in the place in which the offence was wholly or partly committed, or in any place within Her Majesty's dominions in which the person who committed such offence may be.

Jurisdiction in
respect of
offences by
persons
against Act.

17. Any offence against this Act may be described in any indictment or other document relating to such offence, in cases where the mode of trial requires such a description, as having been committed at the place where it was wholly or partly committed, or it may be averred generally to have been committed

Venue in
respect of
offences by
persons.

Act 26, 1906. within Her Majesty's dominions, and the venue or local description in the margin may be that of the county, city, or place in which the trial is held.

Power to remove offenders for trial.

18. The following authorities, that is to say, in the United Kingdom any judge of a superior court, in any other place within the jurisdiction of any British court of justice, such court, or, if there are more courts than one, the court having the highest criminal jurisdiction in that place, may, by warrant or instrument, in the nature of a warrant in this section included in the term "warrant," direct that any offender charged with an offence against this Act shall be removed to some other place in Her Majesty's dominions for trial in cases where it appears to the authority granting the warrant that the removal of such offender would be conducive to the interests of justice, and any prisoner so removed shall be triable at the place to which he is removed in the same manner as if his offence had been committed at such place.

Any warrant for the purposes of this section may be addressed to the master of any ship or to any other person or persons, and the person or persons to whom such warrant is addressed shall have power to convey the prisoner therein named to any place or places named in such warrant, and to deliver him, when arrived at such place or places, into custody of any authority designated by such warrant.

Every prisoner shall, during the time of his removal under any such warrant as aforesaid, be deemed to be in the legal custody of the person or persons empowered to remove him.

Jurisdiction in respect of forfeiture of ships for offences against Act.

19. All proceedings for the condemnation and forfeiture of a ship, or ship and equipment, or arms and munitions of war, in pursuance of this Act, shall require the sanction of the Secretary of State or such chief executive authority as is in this Act mentioned, and shall be had in the Court of Admiralty, and not in any other court; and the Court of Admiralty shall, in addition to any power given to the court by this Act, have in respect of any ship or other matter brought before it in pursuance of this Act all powers which it has in the case of a ship or matter brought before it in the exercise of its ordinary jurisdiction (a).

Regulations as to proceedings against the offender and against the ship.

20. Where any offence against this Act has been committed by any person by reason whereof a ship, or ship and equipment, or arms and munitions of war, has or have become liable to forfeiture, proceedings may be instituted, contemporaneously or not, as may be thought fit, against the offender in any court having jurisdiction of the offence, and against the ship, or ship and equipment, or arms and munitions of war, for the forfeiture in

(a) As to the release of ship on bail, see *The Gauntlet*, L. R. 3 A. and E., 319.

the Court of Admiralty; but it shall not be necessary to take proceedings against the offender because proceedings are instituted for the forfeiture, or to take proceedings for the forfeiture because proceedings are taken against the offender. Act 26, 1906.

21. The following officers, that is to say,—

- (1) Any officer in the United Kingdom, subject nevertheless to any special or general instructions from the Commissioners of Customs or any officer of the Board of Trade, subject nevertheless to any special or general instructions from the Board of Trade;
- (2) Any officer of customs or public officer in any British possession, subject nevertheless to any special or general instructions from the governor of such possession;
- (3) Any commissioned officer on full pay in the military service of the Crown, subject nevertheless to any special or general instructions from his commanding officer;
- (4) Any commissioned officer on full pay in the naval service of the Crown, subject nevertheless to any special or general instructions from the Admiralty or his superior officer,

Officers authorized to seize offending ships.

may seize or detain any ship liable to be seized or detained in pursuance of this Act, and such officers are in this Act referred to as the "local authority"; but nothing in this Act contained shall derogate from the power of the Court of Admiralty to direct any ship to be seized or detained by any officer by whom such court may have power under its ordinary jurisdiction to direct a ship to be seized or detained.

22. Any officer authorised to seize or detain any ship in respect of any offence against this Act may, for the purpose of enforcing such seizure or detention, call to his aid any constable or officers of police, or any officers of Her Majesty's army or navy or marines, or any excise officers or officers of customs, or any harbour-master or dock-master, or any officers having authority by law to make seizures of ships, and may put on board any ship so seized or detained any one or more of such officers to take charge of the same, and to enforce the provisions of this Act, and any officer seizing or detaining any ship under this Act may use force, if necessary, for the purpose of enforcing seizure or detention, and if any person is killed or maimed by reason of his resisting such officer in the execution of his duties, or any person acting under orders, such officer so seizing or detaining the ship, or other person, shall be freely and fully indemnified, as well

Powers of officers authorized to seize ships.

Act 25, 1906. against the Queen's Majesty, her heirs and successors, as against all persons so killed, maimed, or hurt.

Special power of secretary of state or chief executive authority to detain ship.

23. If the Secretary of State or the chief executive authority is satisfied that there is a reasonable and probable cause for believing that a ship within Her Majesty's dominions has been or is being built, commissioned, or equipped contrary to this Act, and is about to be taken beyond the limits of such dominions, or that a ship is about to be despatched contrary to this Act, such Secretary of State or Chief executive authority shall have power to issue a warrant stating that there is reasonable and probable cause for believing as aforesaid, and upon such warrant the local authority shall have power to seize and search such ship, and to detain the same until it has been either condemned or released by process of law, or in manner hereinafter mentioned.

The owner of the ship so detained, or his agent, may apply to the Court of Admiralty for its release, and the Court shall so soon as possible put the matter of such seizure and detention in course of trial between the applicant and the Crown.

If the applicant establish to the satisfaction of the court that the ship was not and is not being built, commissioned, or equipped, or intended to be despatched contrary to this Act, the ship shall be released and restored.

If the applicant fail to establish to the satisfaction of the court that the ship was not, and is not being built, commissioned, or equipped, or intended to be despatched contrary to this Act, then the ship shall be detained till released by order of the Secretary of State or chief executive authority.

The court may in cases where no proceedings are pending for its condemnation release any ship detained under this section on the owner giving security to the satisfaction of the court that the ship shall not be employed contrary to this Act, notwithstanding that the applicant may have failed to establish to the satisfaction of the court that the ship was not and is not being built, commissioned, or intended to be despatched, contrary to this Act. The Secretary of State or the chief executive authority may likewise release any ship detained under this section on the owner giving security to the satisfaction of such Secretary of State or chief executive authority that the ship shall not be employed contrary to this Act, or may release the ship without such security if the Secretary of State or chief executive authority think fit so to release the same.

If the court be of opinion that there was not reasonable and probable cause for the detention, and if no such cause appear in the course of the proceedings, the court shall have power to

declare that the owner is to be indemnified by the payment of costs and damages in respect of the detention, the amount thereof to be assessed by the court, and any amount so assessed shall be payable by the Commissioners of the Treasury out of any moneys legally applicable for that purpose. The Court of Admiralty shall also have power to make a like order for the indemnity of the owner, on the application of such owner to the court, in a summary way, in cases where the ship is released by the order of the Secretary of State or the chief executive authority, before any application is made by the owner or his agent to the court for such release. Act 26, 1906.

Nothing in this section contained shall affect any proceedings instituted or to be instituted for the condemnation of any ship detained under this section where such ship is liable to forfeiture, subject to this provision, that if such ship is restored in pursuance of this section all proceedings for such condemnation shall be stayed; and where the court declares that the owner is to be indemnified by the payment of costs and damages for the detainer, all costs, charges, and expenses incurred by such owner in or about any proceedings for the condemnation of such ship shall be added to the costs and damages payable to him in respect of the detention of the ship.

Nothing in this section contained shall apply to any foreign non-commissioned ship despatched from any part of Her Majesty's dominions after having come within them under stress of weather or in the course of a peaceful voyage, and upon which ship no fitting out or equipping of a warlike character has taken place in this country.

24. Where it is represented to any local authority, as defined by this Act, and such local authority believes the representation, that there is a reasonable and probable cause for believing that a ship within Her Majesty's dominions has been or is being built, commissioned, or equipped contrary to this Act, and is about to be taken beyond the limits of such dominions, or that a ship is about to be despatched contrary to this Act, it shall be the duty of such local authority to detain such ship, and forthwith to communicate the fact of such detention to the Secretary of State or chief executive authority.

Special power
of local authority
to detain
ship.

Upon the receipt of such communication the Secretary of State or chief executive authority may order the ship to be released if he thinks there is no cause for detaining her, but if satisfied that there is reasonable and probable cause for believing that such ship was built, commissioned, or equipped, or intended to be despatched in contravention of this Act, he shall issue his warrant stating that there is reasonable and probable cause for

Act 26, 1906. believing as aforesaid, and upon such warrant being issued further proceedings shall be had as in cases where the seizure or detention has taken place on a warrant issued by the Secretary of State without any communication from the local authority.

Where the Secretary of State or chief executive authority orders the ship to be released on the receipt of a communication from the local authority without issuing his warrant, the owner of the ship shall be indemnified by the payment of costs and damages in respect of the detention upon application to the Court of Admiralty in a summary way in like manner as he is entitled to be indemnified where the Secretary of State having issued his warrant under this Act releases the ship before any application is made by the owner or his agent to the Court for such release.

Power to grant search warrant.

25. The Secretary of State or the chief executive authority may, by warrant, empower any persons to enter any dockyard or other place within Her Majesty's dominions, and enquire as to the destination of any ship which may appear to him to be intended to be employed in the naval or military service of any foreign State at war with a friendly State, and to search such ship.

Exercise of powers of secretary of state or chief executive authority.

26. Any powers or jurisdiction by this Act given to the Secretary of State may be exercised by him throughout the dominions of Her Majesty, and such powers and jurisdiction may also be exercised by any of the following officers, in this Act referred to as the chief executive authority, within their respective jurisdictions: that is to say,—

- (1) In Ireland by the Lord Lieutenant or other the chief governor or governors of Ireland for the time being, or the chief Secretary to the Lord Lieutenant:
- (2) In Jersey by the Lieutenant-Governor:
- (3) In Guernsey, Alderney, and Sark and the dependent islands, by the Lieutenant-Governor:
- (4) In the Isle of Man by the Lieutenant-Governor:
- (5) In any British possession by the Governor.

A copy of any warrant issued by a Secretary of State or by any officer authorised in pursuance of this Act to issue such warrant in Ireland, the Channel Islands, or the Isle of Man, shall be laid before Parliament.

Appeal from Court of admiralty.

27. An appeal may be had from any decision of a Court of Admiralty under this Act to the same tribunal and in the same manner to and in which an appeal may be had in cases within the ordinary jurisdiction of the court as a Court of Admiralty.

Indemnity to officers.

28. Subject to the provisions of this Act providing for the award of damages in certain cases in respect of the seizure or detention of a ship by the Court of Admiralty, no damages shall

Act 26, 1906.

be payable, and no officer or local authority shall be responsible, either civilly or criminally, in respect of the seizure or detention of any ship in pursuance of this Act.

29. The Secretary of State shall not, nor shall the chief executive authority be responsible in any action or other legal proceedings whatsoever for any warrant issued by him in pursuance of this Act, or be examinable as a witness, except at his own request, in any court of justice in respect of the circumstances which led to the issue of the warrant.

Indemnity to secretary of state or chief executive authority.

Interpretation Clause.

30. In this Act, if not inconsistent with the context, the following terms have the meanings hereinafter respectively assigned to them; that is to say,—

Interpretation of terms.

“Foreign State” includes any foreign prince, colony, province, or part of any province or people, or any person or persons exercising or assuming to exercise the powers of government in or over any foreign country, colony, province, or part of any province or people.

“Military service” shall include military telegraphy (a) and any other employment whatever, in or in connection with any military operation :

“Naval service” shall, as respects a person, include service as a marine, employment as a pilot in piloting or directing the course of a ship of war or other ship when such ship of war or other ship is being used in any military or naval operation, and any employment whatever on board a ship of war, transport, store ship, privateer, or ship under letters of marque ; and as respects a ship, include any user of a ship as a transport, store ship, privateer, or ship under letters of marque :

“United Kingdom” includes the Isle of Man, the Channel Islands, and other adjacent islands :

“British possession” means any territory, colony, or place, being part of Her Majesty’s dominions, and not part of the United Kingdom as defined by this Act :

“The Secretary of State” shall mean any one of Her Majesty’s Principal Secretaries of State :

“The Governor” shall, as respects India, mean the Governor-General or the governor of any presidency, and where a British possession consists of

(a) See *The International*, L. R., 3 A, and E., 321.

Act 26, 1906.

several constituent colonies mean the Governor-General of the whole possession, or the Governor of any of the constituent colonies, and as respects any other British possession it shall mean the officer for the time being administering the government of such possession; also any person acting for or in the capacity of a governor shall be included under the term "Governor":

"Court of Admiralty" shall mean the High Court of Admiralty of England or Ireland, the Court of Session of Scotland, or any Vice-Admiralty Court within Her Majesty's dominions:

"Ship" shall include any description of boat, vessel, floating battery, or floating craft; also any description of boat, vessel, or other craft or battery, made to move either on the surface of or under water, or sometimes on surface of and sometimes under water:

"Building," in relation to a ship, shall include the doing any act towards or incidental to the construction of a ship, and all words having relation to building shall be construed accordingly:

"Equipping," in relation to a ship, shall include the furnishing a ship with any tackle, apparel, furniture, provisions, arms, munitions, or stores, or any other thing which is used in or about a ship for the purpose of fitting or adapting her for the sea or for naval service, and all words relating to equipping shall be construed accordingly:

"Ship and equipment" shall include a ship and everything in or belonging to a ship:

"Master" shall include any person having the charge or command of a ship:

Repeal of Acts, and Saving Clauses.

Repeal of
former Act.

31. From and after the commencement of this Act, an Act passed in the fifty-ninth year of the reign of His late Majesty King George the Third, chapter sixty-nine, entitled "An Act to prevent the enlisting or engagement of His Majesty's subjects to serve in foreign service, and the fitting-out or equipping in His Majesty's dominions, vessels for warlike purposes, without His Majesty's license," shall be repealed (a): Provided that such

(a) See decisions on the repealed Act in *Burton v. Pinkerton*, L.R., 2 Ex, 340; *The Salvador*, L.R., 3 P.C. 218,

repeal shall not affect any penalty, forfeiture, or other punishment incurred or to be incurred in respect of any offence committed before this Act comes into operation, nor the institution of any investigation or legal proceeding, or any other remedy for enforcing any such penalty, forfeiture, or punishment as aforesaid. **Act 26, 1906.**

32. Nothing in this Act contained shall subject to forfeiture any commissioned ship of any foreign State, or give to any British court, over or in respect of any ship entitled to recognition as a commissioned ship of any foreign State, any jurisdiction which it would not have had if this Act had not passed. **Saving as to commissioned foreign ships.**

33. Nothing in this Act contained shall extend or be construed to extend to subject to any penalty any person who enters into the military service of any prince, state, or potentate in Asia, with such leave or license as is for the time being required by law in the case of subjects of Her Majesty entering into the military service of princes, states, or potentates in Asia. **Penalties not to extend to persons entering into military service in Asia.**

FOREIGN SEAMEN.

[See "SHIPPING."]

FORT NOTTINGHAM.

[See "COMMONAGES."]

FUGITIVE OFFENDERS.

[See "EXTRADITION."]

GAMBLING.

Act No. 3, 1902.

“To amend the Law against Gambling.”

[2nd May, 1902.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

Extension of
Law 25, 1878, to
all lotteries.

1. The provisions of Law No. 25, 1878, in regard to lotteries, shall extend and apply to all lotteries for money or money prizes, or for securities for money, or for land or any other thing whatsoever, whether such lotteries be known as sweeps or under any other name (a).

Prohibition of
acts in connec-
tion with
lotteries.

2. Every person who shall—

- (a) Establish a lottery, or do any act in preparation for a lottery;
- (b) Conduct or assist in conducting a lottery, or take any part in it;
- (c) Sell, deliver, or offer any ticket or share or the like in a lottery, or take any part in the disposal thereof;

(a) See Law, No. 25, 1878, under tit. “GAMBLING,” Vol. 1. Compare also the decisions as to what is a lottery under 42 Geo. 3, c. 119. The following are some of the decisions referred to: *Reg. v. Crawshaw*, Bell, C.C. 308; 30 L.J., M.C. 58 (“Great Eastern Money Club”); *Morris v. Blackburn*, 2 H. & C. 919 (Distribution of presents amongst audience at entertainment); *Taylor v. Smetton*, 11 Q.B.D., 207 (sale of pound packages of tea with prize coupon); and *Barclay v. Pearson*, [1893] 2 Ch. 154 (“missing word” competition); in all of which the transaction implicated was held to be a lottery. In *Barclay v. Pearson*, the defendant published in his weekly newspaper a paragraph omitting the last word, inviting the public to send him 1s. a piece and compete by filling it in on the terms that all the shillings received should be divided equally amongst those who filled it in with the word selected already by himself and sealed up by a chartered accountant employed by him. This competition

having gone on some fifty weeks, the shillings received in one week amounted to more than £20,000 (twenty thousand pounds). The defendant declining to distribute this sum, on the ground that a competition considered to be similar had been decided by Sir John Bridge at a Metropolitan police court to be illegal, was sued, together with the unsuccessful competitors, by the plaintiff as a successful competitor, who sought for the appointment of a receiver, or for an order for payment into court. Stirling, J., held that the competition was a lottery within sec. 2 of 42 Geo. 3, c. 119, and that the transaction being illegal, the court would not assist in the administration of the fund, which had been brought into court and was paid out to the defendant “to defend himself by means of it against any legal claim and to dispose of the surplus as he might deem himself in honour bound to apply it.”

But compare *Caminada v. Hulton*, 60 L.J., M.C. 116; 64 L.T. 572; 39 W.R. 540.

(d) Knowingly allow any house or room or premises under his control to be used for or in connection with a lottery ; **Act 3, 1902.**

(e) Print, circulate, or in any way publish any advertisement or notice of a lottery or proposed lottery ;

shall be guilty of an offence and shall be liable—

(a) Upon conviction in a Magistrate's Court, to a fine not exceeding Fifty Pounds sterling, or to imprisonment, with or without hard labour, for any term not exceeding six months ;

(b) Upon conviction in the Supreme or a Circuit Court, to a fine not exceeding Two Hundred Pounds sterling, or to imprisonment, with or without hard labour, for any term not exceeding one year.

3. It shall be immaterial whether the lottery in respect of which any act in this Colony is charged, was held, or was intended to be held, in this Colony or elsewhere.

Act to apply to lotteries to be held in Natal or elsewhere.

GAME.

Act No. 8, 1906.

“To consolidate and amend the Laws relating to game.”

[29th June, 1906.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Repeals.

1. The enactments mentioned in Schedule A of this Act are hereby repealed, without prejudice to any licences or permits granted thereunder, or to any liability incurred, or the prosecution of any offence committed before the commencement of this Act.

Interpretation.

2. In this Act—

“Game” means any of the animals or birds mentioned in Schedules B and C of this Act.

“Owner” includes a corporation, local board, trustee, and any person having charge of lands under statutory authority, or private trust or the like.

“Occupier” includes any person having shooting rights over any land under a written agreement.

“Native Trust Lands” means lands belonging to the Natal Native Trust or held in any public trust for Natives.

“The Minister” means the Minister whose department is charged with the administration of this Act.

The expression “kill or catch,” or any like expression, includes intentionally disturbing, chasing, capturing, shooting, or shooting at, injuring or destroying, in whatever manner or by whatever means, and also includes any attempt to do any of such things; and also includes aiding or being knowingly a party to any of such acts.

Close season.

3. The close season under this Act begins on the sixteenth day of August, and continues to the thirtieth day of April, inclusively, in each year.

The Governor in Council may, however, by proclamation, vary the close season for any species of game mentioned in the proclamation.

Unlawful trapping.

4. No person shall at any time kill or catch any game by means of nets, springes, gins, traps, snares, pitfalls, or sticks, or have in his possession for the purposes of killing or catching any game, or set any such thing as aforesaid for such purposes.

Birds under schedule B.

This section shall not, however, apply to the destruction of the birds included under Schedule B by Natives by means of

sticks within a native location at any time out of the close season. Act 8, 1906.

No person shall at any time kill or shoot at with a shot gun, that is to say a gun discharging more than a single bullet at a time, any kind of antelope or deer except rheebock, boschbok, bluebok, klipspringer, duiker, grysbok, inhlengane, and imbabala. Unlawful use of shot gun.

5. No person shall during the close season kill or catch any of the game mentioned in Schedule B of this Act. Close season for game in schedule B.

6. No person shall at any time kill or catch any of the game mentioned in Schedule C of this Act except under the authority of a permit signed by the Minister, who shall, subject to the special provisions of this Act, have full discretion to grant or refuse such permit. Permit required to catch or kill game in schedule C.

Application for a permit shall be made to the Minister in writing.

Every license to kill game in a reserve, or to kill any of the game mentioned in Schedule D., shall bear stamps up to a value calculated according to the rates respectively shown in Section 8 and Schedule D so far as they may apply, and sufficient to cover all game for which the permit is granted, but in no case shall the stamps be of a less value than Five Pounds (£5). No refund will be made in the event of the holder of the permit being unsuccessful in killing or catching any of the game mentioned. Stamps on licenses.

No such permit shall be granted for or be available at any time except from the first day of May to the fifteenth day of August inclusively. Duration of permit.

No such permit shall include roan antelope, buffalo cow, or koodoo cow, more than one black rhinoceros, one hippopotamus, one buffalo bull, two waterbuck, one koodoo bull, two inyala, and two impala. What permit may include.

The permit may contain such special conditions as the Minister may think proper, or as may be required by the regulations.

The permit shall be personal and not transferable, and shall specify the description and number of each class of game to be killed or caught, the time during which it will be available and the place in which it is to be used. Not more than one permit shall be issued to any person during any one year. Not transferable.

The permit must be produced to the Magistrate of the division in which it is to be used for endorsement by him, and it shall not be available for use until so endorsed. To be endorsed by Magistrate.

Every person hunting under the authority of a permit shall be required to produce it whenever so required by a constable or other person having authority for the purpose of inspecting licenses. To be produced on demand.

Act 8, 1906.

Prohibition
regarding
game in sche-
dule E.

7. No person shall at any time kill or catch any of the game mentioned in Schedule E, nor shall any such game be included in a permit.

The Governor in Council may, by proclamation, add to the list in Schedule E any game to which it may in his opinion be necessary to give special protection, and this Act shall apply to game so added as if it were included in Schedule E of this Act.

Reserves may
be established.

8. Reserves, within which it will not be allowed to kill or catch game at any time without a special permit granted by the Minister, for the varieties of game specified therein may from time to time be established by the Governor in Council by notice in the *Natal Government Gazette*.

Such notice may from time to time be varied or revoked by a like notice.

All Reserves heretofore established in the Province of Zululand shall be deemed to be Reserves established under this Act.

Every such special permit will be granted upon the same terms, and under the same conditions, and subject to the same limitations in regard to the game which may be included in the permit, as are hereinbefore provided with regard to permits to kill and catch the game mentioned in Schedule C.

Every such permit shall bear stamps to the value of Ten Pounds (£10) irrespective of, and in addition to any special sum appointed by Schedule D.

Any person found in a Reserve in circumstances indicating that he was unlawfully in pursuit of any game, shall be guilty of a contravention of this Act, unless he shall satisfy the Court that he was not there for any such purpose.

Cancellation
of permit,
grounds for.

9. Any permit under this Act shall be cancelled by the Magistrate if it is found that the person to whom it was granted has made a fraudulent or illegal use of it, or has killed or caught any game in excess of or other than that specified in the permit, or has broken any of its conditions, or if he refuses, or fails without just excuse, to produce it when so required by a person having authority for the purpose. The permit shall thereupon become void, and no refund will be made of the money paid for it.

Special per-
mit to destroy
game which
are causing
damage.

10. It shall be lawful for any magistrate, notwithstanding the foregoing provisions of this Act, on the application of the owner or occupier of any land who shall satisfy him that hartebeest, boschbok (male and female), duiker, hares, partridges, or guinea fowl, are causing loss and damage by destroying trees, plants, or standing crops, to grant a special permit to the person applying to destroy in whatever manner he may please such hartebeest, boschbok (male and female), duiker, hares, partridges,

or guinea fowl upon such land only, during a time to be specified in the permit, but not exceeding six months in duration and renewable from time to time upon further application of the owner or occupier. **Act 8, 1906.**

11. The Minister shall have power to grant permission to residents of the Province of Zululand, to kill game during the close season, if it is proved to his satisfaction that the game is doing damage to crops, or in times of scarcity. Such permission may exclude any specified kinds of game, and shall in no case include elephants, white rhinoceros, eland, roan antelope, buffalo cow, koodoo cow, or springbok. **Permission may be granted to kill game in Zululand if doing damage or in times of scarcity.**

12. If any person shall kill or catch any game upon Crown Lands, or Native Trust Lands, or go upon any Crown Lands or Native Trust Lands, with intent to kill or catch any game, without having first obtained from the Magistrate of the division a written permit for the purpose, or if he shall kill or catch any game otherwise than is authorised by such permit, he shall be guilty of a contravention of this Act. **Killing or going upon Crown Lands to kill, &c., an offence.**

The permit shall specify the game to be killed or caught, the locality in which the permit is to be used, and the time for which it is to be available. **Unless by permit.**

The Magistrate may revoke a permit, and from that time it shall cease to be of any authority. **Revocation of permit.**

Nothing in this section shall be deemed to dispense with the necessity of obtaining a permit from the Minister, in the cases hereinbefore mentioned.

13. If any person shall, with intent to kill or catch any game, trespass (a) upon any land (b), other than Crown Land, or Native Trust Land, without the consent of the owner or occupier, he shall be guilty of a contravention of this Act. **Trespass with intent.**

14. Any person so going upon Crown Land or Native Trust Land, or trespassing upon private land as aforesaid, may be required, in the case of Crown Land or Native Trust Land, by the Magistrate or by a constable, or game conservator, or any other person authorised by the regulations, and in the case of private land by the owner or occupier, or his agent or servant, to **Trespasser may be required to quit and to state name and address.**

(a) Compare sec. 30 of 1 & 2 Will. 4, c. 32. Under the Imperial enactment it was held not to be necessary that the defendant should have intended to commit, or be conscious that he was committing a trespass in order to support a conviction (*Morden v. Porter*, 7 C. B. (N.S.) 641; 29 L.J., M.C. 213; *Watkins v. Major*, L.R., 10 C.P. 662; 44 L.J., M.C. 164).

(b) In *Reg. v. Pratt* (24 L.J., M.C. 113) where the land on both sides of a highway was the property of G. B., and the defendant went upon the highway for the purpose of killing game crossing it, it was held that this was an "entering and being upon," the land of G. B. within sec. 30 of 1 and 2 Will. 4, c. 32.

Act 8, 1906. forthwith quit such land, and also to state his name and residence; and if he shall refuse or wilfully delay to quit the land, or to give his true name and residence when required to do so, he shall be guilty of a contravention of this Act.

Possession of certain game illegal during close season.

15. Any person who shall during the close season possess, carry, sell, or offer for sale, any game, dead or alive, mentioned in Schedules B and C of this Act, or who shall at any time possess, carry, sell, or offer for sale, any game, dead or alive, for which the Minister's permit is required, shall be guilty of a contravention of this Act, unless he shall prove that the animal or bird was either killed or caught, or bought or received during the period in which such animal or bird could be legally killed or caught, or that it has been lawfully killed or caught, in pursuance of a permit, as the case may be, or that it has been imported by sea.

Punishment for unlawful possession.

Any person who shall be found in the possession of any of the game authorised in Schedule E, dead or alive, shall be guilty of a contravention of this Act, and shall be liable to the same punishments as are provided for killing or catching such game as aforesaid, unless he shall show that he became lawfully possessed thereof, and that there has been no infringement of this Act in respect of the killing or catching of such game.

Forfeiture of carcase, skin, hide, horn, &c.

16. Any game, or the carcase thereof, or any skin, hide, horn, tusk, or other part of the carcase of any game, found in the possession of any person, may be seized and forfeited to the Government without any adjudication of forfeiture being required, unless it is shown that it has been obtained without any infringement of this Act.

Prohibition of employing native to hunt game.

17. No person shall employ a Native to hunt game. A person holding a permit or otherwise lawfully engaged in hunting game may, however, employ Natives to assist him, but such Natives shall not use firearms.

Regulations.

18. The Governor in Council may from time to time make regulations for any of the purposes of this Act.

Fine for contravening.

The contravention of any such regulations shall be punishable by a fine not exceeding Five Pounds (£5).

Fine where no special punishment appointed.

19. Any person guilty of a contravention of this Act for which no special punishment is appointed shall be liable to a fine not exceeding Ten Pounds (£10), and in default of payment to imprisonment, with or without hard labour, for any term not exceeding three months.

In cases where the contravention is in respect of game included in Schedule D, or killing or catching game in a Reserve without the necessary permit, the person shall, in addition to any penalty which may be imposed, be adjudged to forthwith

pay to the Magistrate the amount of any license or permit, which in terms of this Act should have been first obtained. **Act 8, 1906.**

20. Any person who shall kill or catch any of the game mentioned in Schedule E, or who, without having the proper permit by the Minister, duly endorsed by a Magistrate, shall kill or catch any hippopotamus or black rhinoceros, shall be liable to a fine not exceeding One Hundred Pounds (£100), and in default of payment to imprisonment, with or without hard labour, for any term not exceeding six months. **Fine of £100 for certain offences.**

21. In any prosecution under this Act it shall be lawful for the Court, upon a second or later conviction, or if the Court is of opinion that, having regard to the circumstances of the case, a fine would be an inadequate punishment, to impose such sentence of imprisonment as is appointed for the offence without giving the option of a fine. **Imprisonment on second or later conviction.**

22. All contraventions of this Act or of the regulations may be prosecuted by any person in the Court of a Magistrate. **Prosecutions, by whom conducted.**

All fines shall be paid to the Colonial Revenue, provided that the Magistrate may award a sum not exceeding one-half of such fine to an informer by whose information the conviction has been obtained. **Award to informer.**

23. The Governor in Council may from time to time, by proclamation, remove any specified game from the lists contained in Schedules B or C of this Act, as regards the Province of Zululand, and may transfer such game to the list in another Schedule, for the purposes of the said Province. **As regards Zululand Governor may remove specified game from one list to another.**

Such proclamation may from time to time be varied or revoked by a like proclamation.

Subject to the powers of alteration given as aforesaid, the following game shall, as regards the Province of Zululand, be excluded from the Schedule C and included in Schedule B of this Act: The imbabala or female boschbok, the rooi rheebock, the male rietbok, the steenbok, the inkumbi or red boschbok, the paauw, korhan, and crane.

SCHEDULE A.

Law No. 16, 1891, entitled Law "To make provision for the better preservation of game within the Colony of Natal."

Act No. 24, 1894, entitled Act "To amend the game Law, 1891."

Act No. 4, 1904, entitled Act "To amend the Laws relating to game."

Zululand Proclamation No. 2, 1897, made by the Governor of Zululand on the 22nd day of April, 1897.

Act 8, 1906.

SCHEDULE B.

All varieties of the birds undermentioned, and known in this Colony as the partridge, pheasant, dikkop, wild guinea fowl.

Hares and all varieties of the antelope genus, generally known in this Colony as the rheebok, boschbok, bluebok, klipspringer, duiker, grysbok, inhlengane; also the zebra and blue wildebeest.

SCHEDULE C.

The hippopotamus, commonly called seacow, steenbok, hartebeest, eland, koodoo, rietbok, impala, inyala, blesbok, ouribi, rooi rheebok, female boschbok, commonly known as imbabala, red boschbok, commonly known as inkumbi, buffalo, waterbuck, rhinoceros, Java or Mauritius deer, paauw, korhan, crane, and ostrich.

SCHEDULE D.

Stamp duties upon permits to shoot game :—

For each Hippopotamus	£20
For each Black Rhinoceros	£20
For each Buffalo Bull	£10
For each Koodoo Bull	£10
For each Eland Bull	£5

SCHEDULE E.

Elephant.
 White Rhinoceros.
 Eland Cow.
 Roan Antelope.
 Springbok.
 Buffalo Cow.
 Koodoo Cow.

GAMING.

[See "GAMBLING."]

GAOLS.

[See "COURTS (NATIVE)."]

Act No. 9, 1901.

"To extend the provisions of Law No. 6, 1889, entitled Law 'To amend the Law No. 39, 1887,' entitled Law 'To consolidate and amend the Laws relating to Gaols in the Colony of Natal.'"

[30th July, 1901.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. The provisions of Law No. 6, 1889, shall extend to the Central Gaol at Eshowe, in the Province of Zululand, and to any other Central Gaol which the Governor may, by Proclamation, bring within the provisions of the said Law.

Extension
of provisions
of Law 6, 1889.

Act No. 32, 1906.

"To amend the Gaol Law of 1887."

[17th August, 1906.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. Subject to any regulations which may be made under the Gaol Law of 1887 and to the instructions of the Minister having charge of the Department, the Chief Commissioner of Police or any other officer appointed by Government for the administration of the Gaol laws may, in the case of prisoners sentenced to imprisonment with hard labour for any period exceeding three months, contract with any municipality, township or other public body, or with any company or individual, for the employment of such persons under sentence as aforesaid upon such terms and conditions as to safe custody and maintenance and otherwise as he may deem fit, and thereupon an order signed by the Chief

Prisoners
sentenced to
imprisonment
exceeding
three months
may be con-
tracted for
service with
municipalities,
companies, &c.

Act 32, 1906. Commissioner or such other officer as aforesaid, setting forth the place where the employment shall be shall constitute such place a place of confinement proper for the employment of prisoners within the provisions of the Gaol Law of 1887, and any person named for that purpose in such order shall be deemed to be the officer, constable or guard in charge of the prisoners.

GOVERNMENT SECURITIES.

Act No. 31, 1901.

“To facilitate the Investment of Trust and other Funds in the United Kingdom in Natal Government Securities.”

[19th August, 1901.]

WHEREAS an Act has been passed by the Imperial Parliament of Great Britain and Ireland in order to facilitate the investment of trust funds in the United Kingdom in Colonial Government Securities, subject to the condition that the Colonial Governments concerned should by Statute make certain provisions in the interests of the British investor :

AND WHEREAS it is expedient that provision should be made accordingly in so far as concerns Natal Government Securities :

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. This Act shall apply to all bonds, debentures, scrip, inscribed stock, and other securities heretofore or hereafter created or issued on behalf of the Government of Natal, and secured by, or charged upon, the public revenues or Consolidated Fund of Natal, or forming part of the public debt of Natal, in respect of money borrowed under the authority of any Law or Act heretofore or hereafter passed by the Parliament of Natal, each and all of which securities are hereinafter referred to as “Natal Government Securities.”

Securities to which this Act applies.

2. (1) Whenever by the final judgment, decree, rule, or order of any court of competent jurisdiction in the United Kingdom any sum of money is adjudged or declared to be payable by the Government of Natal in respect of any Natal Government Securities, the Colonial Treasurer shall forthwith pay the same out of the Natal Public Account in London without further appropriation than this Act.

Provision for satisfying judgments of Courts in United Kingdom in respect of Government securities.

(2) For the purposes of this section “final judgment decree, rule, or order” means in case of appeal the final judgment, decree, rule, or order of the ultimate court hearing the appeal.

(3) Without in any way limiting the foregoing provisions of this section, it is hereby declared that, in the case of such Natal Government Securities as are

Act 31, 1901.

Colonial Stock to which the Imperial Act entitled "The Colonial Stock Act, 1877," (a) applies, the Colonial Treasurer shall, without further appropriation than this Act, forthwith pay out of the Natal Public Account in London, whatever sums may from time to time be required, in order to enable the Registrar of such stock to forthwith comply with any judgment, decree, rule, or order with which, under Section 20 of the Imperial Act aforesaid, the Registrar is required to comply.

Warrants for
issue of money
required to be
paid.

3. In order to enable every such payment to be made out of the Natal Public Account in London, the warrant of the Colonial Treasurer or the Agent-General, specifying the sum to be paid shall be sufficient authority to the Audit Office and the Commissioners or other Officers having the control of that account to cause the requisite money to be issued out of that account.

GOVERNOR.

[See "INDEMNITY LAW."]

GRASS FIRES.

Act No. 18, 1902.

“To amend and extend the operation of the ‘Grass Burning Act, 1895,’ and to provide for enquiries into fires occurring along the Natal Government lines of railway in the Colony.”

[26th May, 1902.]

BE IT ENACTED by the King’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. The Grass Burning Act, 1895, shall, anything in the said Act notwithstanding, extend to and be in operation throughout the Colony, so far as relates to lands occupied by the Natal Government Railway, and to lands through which any such Railway runs, or which abut upon railway lands, in same manner as if the said lands, and the Magisterial Divisions in which they may be situated, had been brought under the said Act by proclamation of the Governor in manner as in the said Act provided; and for the purposes of this Act the Department of the Natal Government Railways shall be deemed to be an owner or occupier of a farm within the meaning of the said Act.

Extension of
Grass Burning
Act to railway
and adjacent
lands through-
out Colony.

2. Whenever a fire occurs on lands abutting upon a railway and damage is caused thereby, then upon the request of any superior officer of the railway, or upon such information being given by any other person as shall satisfy the Magistrate that there is reasonable ground to believe that the fire may have been caused by sparks or coals from a railway engine or through the act of some person working the same, the Magistrate shall hold an enquiry as to the cause of the fire. Such request must be made, or such information must be given, within seven days after the fire.

Inquiry by
Magistrate in
case of fire
near railway.

3. The Magistrate shall at once cause the scene of the fire to be inspected and examined, and shall also, if possible, proceed thither and inspect the place himself.

Inspection of
scene of fire.

4. The Magistrate shall summon before him all such persons as he may require, and shall examine such persons on oath, and shall take down their evidence in writing.

Taking
evidence.

5. Any person summoned as a witness, and making default shall be liable to a fine not exceeding Ten Pounds Sterling, and may be brought before the Magistrate under arrest to give his

Witnesses.

Act 18, 1902. evidence; and for the purpose of any perjury or contempt or the like committed by witnesses, the enquiry shall be deemed to be a judicial proceeding in the Magistrate's Court.

Evidence open
to inspection
by certain
persons.

6. The evidence taken at the enquiry shall lie at the Magistrate's office, and may be inspected and copied by anyone acting under the direction of a superior officer of the railway, or by or on behalf of the person on whose request the enquiry was held, or any person whom the fire may have injured.

Expenses and
costs.

7. The expenses of the witnesses shall be paid as in criminal cases, and the costs of the enquiry shall be borne by the general revenue..

GREY'S HOSPITAL.

Act No. 42, 1903.

“To empower the Trustees of Grey's Hospital to apply certain moneys towards the purchase of land and the cost of new Hospital Buildings.”

[21st November, 1903.]

WHEREAS by Law No. 15, 1882, it is enacted that all moneys accruing from the sale of lands belonging to the Board of Trustees of Grey's Hospital shall be invested in certain securities :

AND WHEREAS it is expedient that the Trustees should be empowered to apply the proceeds of the sale of any such lands towards the purchase of land and erection and equipment of Hospital Buildings :

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. It shall be lawful for the Board of Trustees of Grey's Hospital to apply the proceeds of the sale of any lands vested in the Board in payment or part payment for a site for a new Hospital and for the erection and equipment of Hospital Buildings and other buildings required in connection therewith upon premises belonging to the Board.

2. No lands shall be purchased by the said Board without the previous consent of the Governor.

GREYTOWN LOCAL BOARD.

Act No. 24, 1901.

“To enable the Greytown Local Board to borrow a sum not exceeding Twelve Thousand Pounds for the purpose of supplying the Township of Greytown with water; to construct the necessary works; to levy a water rate; to prevent the pollution of water; and generally to exercise all powers necessary for the purpose aforesaid.”

[19th August, 1901.]

WHEREAS it is expedient to authorise the Local Board for the Township of Greytown to borrow a sum not exceeding Twelve Thousand Pounds to enable the said Board to supply the Township of Greytown with water; to construct the necessary works; to levy a water rate; to prevent the pollution of water; and generally to exercise all powers necessary for the purpose aforesaid.

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of the Colony of Natal, as follows:—

Short title.

1. This Act may be cited as “The Greytown Loan and Waterworks Act, 1901.”

Loan of
£12,000 author-
ised.

2. The Local Board of the Township of Greytown is hereby authorised to borrow from time to time the moneys required for the construction of waterworks for the Township of Greytown to an amount not exceeding Twelve Thousand Pounds Sterling.

Application of
moneys.

3. The moneys borrowed under this Act shall be applied to the object mentioned in the last preceding section, and to no other object.

Loan to be a
charge on the
township rates,
rents, and
revenues.

4. The sums authorised to be borrowed under this Act and the interest payable thereon shall be a charge upon the rates, rents, and revenues of the Township of Greytown.

Remedy for
default in
payment of
interest.

5. In case the interest payable on any moneys borrowed under this Act shall be in arrear and unpaid for thirty days after the time appointed for the payment thereof, it shall be lawful for the Supreme Court of the Colony of Natal, at the instance of any person whose interest shall be in arrear, and as often as such default shall occur, to cause a special rate to be levied upon the real or immovable property situate within the Township of Greytown which is now or may hereafter be liable to be rated for township purposes under any Law or Act now or hereafter to be in force in the Colony of Natal, to the intent that all

arrear interest may be paid out of the proceeds of such special rate. **Act 24, 1901.**

6. The moneys borrowed under this Act shall be repayable within twenty-five years from the date of borrowing. **Date of repayment.**

7. In case any moneys borrowed under this Act shall not be repaid upon demand at or after the date fixed for the repayment thereof, it shall be lawful for the said Supreme Court, as often as such default shall occur, and at the instance of any person whose claim shall be unsatisfied, to cause a sale or sales to be made of so much of the Town Lands of the Township of Greytown as may be necessary for the purpose of raising and repaying the moneys due and payable under this Act, and in case the moneys received by such land sale or sales shall be insufficient to pay and satisfy all moneys due and payable, then the deficiency shall be made good by a special rate or special rates to be levied in the manner hereinbefore provided in Section No. 5 hereof with respect to the payment of arrear interest. **Remedies for default in repayment of loan.**

8. The moneys hereby authorised to be borrowed may be raised upon debentures or stock, to be called "The Greytown Local Board Stock," and hereinafter referred to by the word "stock." **Debentures or stock.**

9. Such debentures or stock shall bear interest at a rate not exceeding six per centum per annum, falling due on the 30th day of June and on the 31st day of December in each year, and payable out of the rents, rates, and revenues of the Township of Greytown, or out of the proceeds of the sales of land of the said township, and payment thereof shall be made by the Town Clerk of the said township. **Interest.**

10. The Local Board of Greytown may from time to time make rules and regulations providing for all or any of the following things:— **Regulations relative to stock.**

1. For registering stock in the books to be kept for that purpose by the said Town Clerk.
2. For managing the creation, registration, issue, transfer, and repayment of stock.
3. For paying interest on stock.
4. For issuing stock certificates.

11. For the purposes of the construction of the works authorised by this Act, the Lands Clauses Consolidation Law, 1872, and all the provisions thereof, shall be incorporated with this Act, save in so far as expressly varied by this Act. **Incorporation of Lands Clauses Law.**

12. The Local Board for the Township of Greytown may purchase or take such lands as may be required for the purposes of the works and undertakings authorised by this Act. **Expropriation of land.**

Act 24, 1901.

Construction
of works:
Distribution
of water.

13. The Local Board of the Township of Greytown is authorised to construct all works and do all things necessary for damming up the water, and for making reservoirs, filter beds, and surface tanks, upon the town lands of Greytown, and for laying water pipes through private lands and through the town lands and the Township of Greytown, and for leading water through such pipes and for storing water, and for distributing water through such portions of the said township as the Local Board may from time to time determine, to bring within the water area of the said township, and to make such works and to do and perform all such further and other acts, deeds, matters, and things as may be necessary for the due carrying out of the objects of this Act.

Site of dam,
and route of
pipes.

14. The site upon which the said water shall be dammed and the route of the water pipes shall follow as near as may be the line laid down in the map or chart filed with the Clerk of the Legislative Council, and the Clerk of the Legislative Assembly and in the office of the Local Board at Greytown.

Compensation
for injury by
taking of
water.

15. If the taking, impounding, diversion, appropriation, or conveyance of water under the authority of this Act shall deprive any person of any water, or right of water, which he may at the time of such taking, impounding, diversion, appropriation, or conveyance of water, possess, or be entitled to possess, and shall thereby cause damage to such person or his property, such person shall be entitled to recompense or compensation, to be settled, in case of difference, as if the diversion of water constituted a damage to land within the meaning of the 65th Section of the said Lands Clauses Consolidation Law.

Water rate.

16. The Local Board for the Township of Greytown may from time to time levy a water rate not exceeding two pence in the £ Sterling upon any portion of the immovable property situate within the said township which is liable to be rated under any Law or Act now or hereafter to be in force in the Colony of Natal: Provided always that no such rates shall be levied in respect of any property, the nearest point whereof shall not be situate within two hundred and twenty yards of the nearest point of the water system.

Incorporation
of clauses of
certain laws.

17. For the purposes of the water rates authorised by this Act, Sections 38, 39, 43, 44, 47, and 48 of Law No. 11 of 1881, and Sections 12, 13, and 14 of Law No. 39 of 1884, and Section 9 of Law No. 17 of 1893 shall be construed conjointly with this Act.

By-laws.

18. The powers to make By-laws given to Local Boards under any Law or Act now or hereafter to be in force in the Colony of Natal are extended to the Local Board for the Town-

ship of Greytown for all the purposes of this Act, but such powers are specially extended so as to enable the said Local Board to make By-laws:— **Act 24, 1901.**

1. To prevent the pollution or waste of any water required or authorised to be used under this Act.
2. To prevent the obstruction of any person in the discharge of his duty in connection with the waterworks hereby authorised.
3. To prevent the doing of any act or thing likely to cause damage to the said waterworks or any portion thereof.

Any person convicted of any breach of any of such By-laws shall be liable to a penalty for each offence not exceeding Ten Pounds Sterling, or in default of payment to imprisonment, with or without hard labour, for any period not exceeding one month. Any fine inflicted under the provisions of this Act shall be payable into and form part of the revenue of the said township. Any person charged with contravening any such By-law shall be prosecuted in the Court of the Magistrate having jurisdiction by any officer appointed for that purpose by the Local Board for the Township of Greytown.

Penalties for offences.

19. The Local Board for the Township of Greytown may regulate and control the mode of supplying water to private property, and may frame a tariff of charges in respect of such supply, and may also frame a tariff of special charges for any special consumption of water other than for domestic or household use, and may contract with the Natal Government for the supply of water for the use of the said Government, and may contract for the supply of water to persons or corporations residing within or without the boundaries of the said township.

Supply of water: Tariff of charges: Special contracts.

20. The said Local Board by its proper officers shall have the right of access into private houses or on to private lands for the purpose of inspecting pipes, meters, and cisterns: Provided no such right shall be exercised against the wish of a householder except between the hours of 9 o'clock in the forenoon and 4 o'clock in the afternoon, and then only in pursuance of a notice in writing to be delivered upon the premises so to be entered upon for the purposes aforesaid not less than 24 or more than 48 hours before the inspection.

Right of entry for purpose of inspection.

21. This Act shall commence and take effect from and after the promulgation thereof in the *Natal Government Gazette*.

Commencement.

Act No. 29, 1906.

“To confer borrowing powers upon the Local Board of the Township of Greytown, in addition to the powers heretofore given to the said Board, for the purpose of enabling the said Board to purchase certain property, and carry out certain works in order to secure and conserve the Town Water Supply, and also to sell certain property belonging to the said Board, and to extend otherwise the powers of the Board.”

[15th August, 1906.]

WHEREAS by the Greytown Loan and Waterworks Act, 1901, the Local Board of the Township of Greytown was authorised to borrow certain moneys for the purpose of supplying the Township of Greytown with water and to carry out certain works :

AND WHEREAS the said moneys have been raised and the contemplated works duly carried out :

AND WHEREAS in order to secure to the said Township the control of an adequate water supply it has become necessary that the Township should acquire by purchase and exchange certain lands abutting on the Town Lands of Greytown :

AND WHEREAS under the provisions of Section 15 of Law No. 39, 1884, the Board has borrowed certain moneys for the purpose of commencing, carrying on, and completing certain public works within the Township, which have been duly carried out :

AND WHEREAS it is expedient to authorise the Board to borrow certain moneys for the purpose of paying off the said money so borrowed as aforesaid, and of paying for the said land so to be purchased and other expenses incidental thereto :

AND WHEREAS it is desirable otherwise to extend the powers of the said Board :

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of the Colony of Natal, as follows :—

1. The Local Board of the Township of Greytown, hereinafter referred to as the Board, is hereby authorised to borrow from time to time the moneys required for the purpose of repaying moneys borrowed for the purpose of commencing, carrying on, and completing certain public works within the Township, and for the purpose of paying for the land hereinafter referred to, and incidental expenses connected therewith, to an amount not

Loan authorised.

exceeding in all the sum of Twenty-Five Thousand Pounds (£25,000) Sterling. **Act 29, 1906.**

2. The moneys to be borrowed under this Act shall be applied to the objects mentioned in the last preceding section, and not otherwise, but it shall not be incumbent upon the Lender to see to the application thereof. **Application of moneys.**

3. The moneys to be borrowed under this Act, and the interest payable thereon, shall be a charge upon the rates, rents, and revenues of the Township of Greytown, second only to the charge already existing in respect to the moneys borrowed under the Greytown Loan and Waterworks Act, 1901. **Moneys to be a charge on rates.**

4. In case the interest payable on any moneys to be borrowed under this Act shall be in arrear and unpaid for thirty days after the time appointed for the payment thereof, it shall be lawful for the Supreme Court of the Colony of Natal, at the instance of any person whose interest shall be in arrear, and as often as such default shall occur, to cause a special rate to be levied upon the real or immovable property situate within the Township of Greytown which is now or may hereafter be liable to be rated for township purposes under any Law or Act now or hereafter to be in force in the Colony of Natal, to the intent that all arrear interest may be paid out of the proceeds of such special rate. **Special rate may be levied to pay arrear interest.**

5. The moneys to be borrowed under this Act shall be repayable within twenty-five years from the date of borrowing. **Repayment.**

6. In case any moneys to be borrowed under this Act shall not be repaid upon demand at or after the date fixed for the repayment thereof, it shall be lawful for the said Supreme Court, as often as such default shall occur, and at the instance of any person whose claim shall be unsatisfied, to cause a sale or sales to be made of so much of the Town Lands of the Township of Greytown as may be necessary for the purpose of raising and repaying the moneys due and payable under this Act, and in case the moneys received by such land sale or sales shall be insufficient to pay and satisfy all moneys due and payable, then the deficiency shall be made good by a special rate or special rates to be levied in the manner hereinbefore provided in Section No. 4 hereof with respect to the payment of arrear interest. **Procedure in default of repayment.**

7. The moneys hereby authorised to be borrowed may be raised upon debentures or stock, to be called "The Greytown Local Board Stock," and hereinafter referred to by the word "stock." **"Stock."**

8. Such debentures or stock shall bear interest at a rate not exceeding six per centum per annum, falling due on the 30th **Rate of interest on stock.**

Act 29, 1906.

day of June, and on the 31st day of December, in each year, and payable out of the rents, rates, and revenues of the Township of Greytown, or out of the proceeds of the sales of land of the said Township, and payment thereof shall be made by the Town Clerk of the said Township.

Rules.

9. The Board may from time to time make rules and regulations providing for all or any of the following things:—

1. For registering stock in the books to be kept for that purpose by the Town Clerk.
2. For managing the creation, registration, issue, transfer, and repayment of stock.
3. For paying interest on stock.
4. For issuing stock certificates.

Purchase and exchange authorised.

10. The Board shall be entitled to conclude their purchase and exchange with Walter John Slatter of such portion of the farm "Landsberg" abutting on the Town Lands of Greytown, as the Board may decide, and to take transfer thereof in the name of the Board, and to give transfer to the said Walter John Slatter of such land presently belonging to the Board, and forming the most westerly portion of the Town Lands of Greytown, as may be necessary to complete the Contract, and such property shall thereupon be deemed to be beyond the Township boundary as fully and effectually as if such property had not been included within the Township boundary.

Boundaries of township to be extended to include land acquired.

11. Upon registration of transfer of the said property to the Board, the boundaries of the Township of Greytown shall be extended so as to include such land, and the By-laws, authority, and jurisdiction of the Board shall extend to such land from the date of the registration of the transfer thereof to the Board, as if to all intents and purposes it had been included within the original boundaries laid down under the provisions of Section 6 of Law No. 11, 1881.

Power to sell lands.

12. The Board shall be entitled from time to time to sell by Public Auction, and upon such terms as the Board shall direct, subject to the consent of the Governor, under Section 45 of the Townships Act, No. 11 of 1881, the whole or any portion of the Town Lands of Greytown, including also the land so to be acquired from the said Walter John Slatter: Provided that the proceeds of all such sales shall, until the moneys borrowed hereunder have been fully paid off, be paid into a fund which shall be created by the said Board, called the "Waterworks Loan Sinking Fund," and all moneys so paid into the said Fund shall be devoted entirely to the repayment of the moneys borrowed under the provisions of the preceding Loan Act and this Act, either by

redeeming the debentures or stock issued, or to be issued, under the provisions of the said preceding Act and this Act, or by the payment of interest thereunder. **Act 29, 1906.**

13. This Act shall commence and take effect from and after the promulgation thereof in the *Natal Government Gazette* (a) Commencement.

GUNPOWDER.

[See "ARMS, AMMUNITION, &C."; "EXPLOSIVES."]

HAWKERS.

[See "SHOP HOURS."]

HEALTH.

[See "PUBLIC HEALTH."]

(a) 21st August, 1906.

HOLIDAYS.

Act No. 18, 1901.

“To amend Law No. 15, 1862, entitled Law ‘To declare Public Holidays, and the Law in relation to Bills of Exchange and Promissory Notes becoming payable upon Holidays.’”

[19th August, 1901.]

BE IT ENACTED by the King’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. Section 1 of Law No. 15, 1862, is hereby repealed, and the following is enacted in lieu thereof:—

The following days shall be Public Holidays, that is to say:—

New Year’s Day ;

Good Friday ;

Easter Monday ;

Whit Monday ;

The 24th May (which shall be known as
Victoria Day) ;

Michaelmas Day (the 29th of September) ;

King’s Birthday (the 9th of November) ;

Christmas Day ;

and any day appointed by Proclamation of the Governor as a Public Holiday ; and all references in the said Law to any holidays therein named shall be deemed to be references to the holidays mentioned in this Act.

2. Any reference in Law No. 8, 1887, to “non-business days” shall be deemed to include Sundays and the Public Holidays defined by this Act, and no other days ; and any reference in any other Law or Act to Public Holidays shall, unless they also include Sundays, be deemed to be references to the Public Holidays as defined by this Act and no other.

HORSES.

[See “ANIMALS (DISEASES).”]

IDENTIFICATION OF NATIVE SERVANTS.

[See "MASTER AND (NATIVE) SERVANTS."]

IMMIGRATION (EUROPEAN).

[See "LANDS (IMPROVEMENT)."]

IMMIGRATION (INDIAN).

[See "IMMIGRATION (RESTRICTED)"; "VACCINATION."]

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Act No. 8, 1901.

"To extend the Law and Acts relating to Indian Immigration to the Province of Zululand."

[30th July, 1901.]

BE IT ENACTED by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. The Law and Acts enumerated in the Schedule to this Act shall extend to, and be of force in, the Province of Zululand, subject to the provisions of Section 7 of Act No. 17 of 1898 (a).

Indian Immi-
gration Laws
and Acts
extended to
Zululand.

2. This Act shall take effect from such date after the promulgation thereof as shall be appointed by Proclamation in the *Natal Government Gazette*.

Commence-
ment.

(a) See tit. ZULULAND, Vol. 3.

Act 8, 1901.

SCHEDULE.

No of Law or Act.	Title.
Law No. 25, 1891,	"The Indian Immigration Law, 1891."
Act No. 36, 1894,	"To extend the powers of the Indian Immigration Trust Board."
Act No. 37, 1894,	"To amend the Indian Immigration Trust Board Law, 1874."
Act No. 17, 1895,	"The Indian Immigration Amendment Act, 1895."
Act No. 34, 1895,	"To amend the Indian Immigration Trust Board Law, 1874."
Act No. 7, 1896,	"The Indian Immigration Amendment Act, 1896."
Act No. 14, 1897,	"To amend the 'Indian Immigration Amendment Act, 1895.'"
Act No. 28, 1897,	"To protect uncovenanted Indians from arrest in mistake for absconding indentured Indian servants."
Act No. 19, 1898,	"To amend Act No. 28, 1897, entitled Act, 'To protect uncovenanted Indians from arrest in mistake for absconding indentured Indian servants.'"
Act No. 21, 1898,	"To amend Act No. 34, 1895, entitled Act 'To amend the Indian Immigration Trust Board Law, 1874.'"
Act No. 1, 1900,	"To amend the 'Indian Immigration Law, 1891.'"

Act No. 48, 1901.

"To amend the Indian Immigration Amendment Act, 1895."
[23rd December, 1901.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Rate of wages of Indian women on reindenture.

1. The rates of wages to be stipulated for in the covenant made by any Indian woman under the second section of Act No. 17, 1895, shall be one-half of the respective rates provided for in the said section, or such other special rate as may be mutually agreed on by the employer and the Indian woman, but in no case less than one-half of the respective rates aforesaid.

Trust Board may fix the annual instalments payable by successive employers.

2. The annual payments to be made by the successive employers of indentured Indian Immigrants as provided in section 14 of the said Act shall be fixed by the Indian Immigration Trust Board in their discretion: Provided that such annual

payments by a second or succeeding employer under renewed indenture shall in no case exceed the annual payments made by the first employer under the original indenture.

3. The moneys accruing from the annual payments made as aforesaid by first and subsequent employers of indentured Indians may be used by the Indian Immigration Trust Board for the repayment of any moneys borrowed or debts incurred in the introduction of Indian immigrants, or they may be applied towards the cost of introducing further Indian immigrants, or of returning Indian immigrants to India, or for such other purpose as the said Board shall deem necessary.

Act 48, 1901.

Purposes to which the moneys may be applied.

Act No. 17, 1902.

To amend Act No. 34, 1895, entitled an Act "To amend the Indian Immigration Trust Board Law, 1874."

[26th May, 1902.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. Section 5 of Act No. 34, 1895, shall be repealed, and the following shall be enacted in lieu thereof, that is to say:—

Constitution of Board.

The Indian Immigration Trust Board of Natal (hereinafter referred to as the Board) shall consist of seven members, to be elected by five divisions of the Colony as follows:—

Division No. 1.—Victoria County and the Province of Zululand, two members.

Division No. 2.—The counties of Durban, Alexandra, and Alfred, two members.

Division No. 3.—The County of Pietermaritzburg, one member.

Division No. 4.—The Counties of Umvoti and Weenen, one member.

Division No. 5.—The County of Klip River, one member.

Three members of the Board shall form a quorum.

Quorum.

2. Nothing in the foregoing section shall be deemed to affect the constitution of the Board until the first election of members shall have been held under this Act.

Present constitution to remain till next election.

3. An election of one member for the Division No. 2 and one member for the Division No. 5 shall take place in the month of May, 1902, or as soon thereafter as conveniently may be. Such members shall hold office until the next ensuing general election of members of the Board shall take place in ordinary

Election of additional members.

Act 17, 1902.	course. The members holding office at the date of the passing of this Act shall thereupon be deemed to be members for the respective Divisions Nos. 1, 2, 3, and 4, as defined by this Act.
Present members.	
Tenure of office by members elected to vacancies.	4. Any member elected under the provisions of Section 9 of Act No. 34, 1895, shall hold office until the next ordinary general election of members of the Board.
Joint construction.	5. This Act shall be read and construed jointly with Act No. 34, 1895, as one Act.

Act No. 23, 1902.

“To empower the Indian Immigration Trust Board to raise a loan not exceeding £250,000.”

[31st May, 1902.]

WHEREAS the Indian Immigration Trust Board of Natal has from time to time borrowed from the Colonial Government sums of money in excess of the loans for which special authority has been made by law :

AND WHEREAS the said Board is desirous of raising a loan of Two Hundred and Fifty Thousand Pounds Sterling to be used for the repayment of the sums due to the Government and in the payment of the cost of introducing indentured Indian immigrants into Natal, in anticipation of the receipt of the contributions payable by the employers of such Indians :

AND WHEREAS, by reason of the public interests involved, it is expedient that the Colonial Government should guarantee the repayment of the loan to be raised as aforesaid :

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows.—

Short title.	1. This Act may be cited as the “ Indian Immigration Trust Board Loan Act, 1902.”
Loan authorised.	2. The Indian Immigration Trust Board of Natal (hereinafter called the Board) are authorised to borrow from time to time moneys not exceeding in the whole the sum of Two Hundred and Fifty Thousand Pounds Sterling (£250,000).
Application of moneys.	3. The moneys borrowed under this Act shall be applied to the following purposes and no other, that is to say :— (1) The immediate repayment of all sums borrowed from the Colonial Government, together with interest thereon at the rate of four per centum per annum from the respective dates when the loans were made by the Government.

(2) The defraying of the costs of and connected with or incidental to the introduction into Natal of indentured Indian immigrants and their return to India. **Act 23, 1902.**

4. The moneys hereby authorised to be borrowed shall be raised upon debentures, which the Board is hereby specially authorised to issue under the signature of the Chairman and the counter-signature of the Secretary, in such form and for such amounts and subject to such terms and conditions as may be determined by resolution of the Board, with the approval of the Colonial Treasurer, and subject always to the provisions of this Act. **Debentures.**

5. The principal sums secured by the debentures shall bear interest at a rate not exceeding four per centum per annum, and shall be repaid within twenty-five years from the first day of July, 1902. **Interest.**

6. The moneys secured by any debenture passed under this Act and the interest thereon shall be and are hereby declared a first and preferent charge upon the rents and revenues of the Board, and in particular upon the contributions which may be from time to time payable to the Board by the employers of indentured Indian immigrants. **Security of rents and revenues.**

The Chairman of the Board, upon being thereto authorised by a resolution of the Board, shall be empowered to sign and execute any bond or other document in pursuance of the provisions of this section, and for giving full and complete effect thereto. **Bond may be passed.**

7. The moneys borrowed under this Act and the due payment of the principal and interest to become payable under the debentures shall be guaranteed by the Colonial Government, and shall be a charge on the general revenue of this Colony. **Guarantee by Colonial Government.**

The guarantee shall be in such form as shall be determined by the Governor in Council, and shall be signed by the Colonial Treasurer.

8. The Board shall enter into such agreement and furnish such security as the Governor in Council may deem necessary for the protection of the Colonial Government in respect of the guarantee to be given as aforesaid. **Security to be furnished to Government.**

9. Subject to the preference given to the holders of debentures issued under this Act all monies which may be paid by the Colonial Government under the guarantee to be given as aforesaid, shall be a first and preferent charge upon the rents and revenues of the Board, and in particular upon the contributions payable from time to time by the employers of indentured Indian immigrants. **Moneys paid by Government to be a charge upon rents and revenues.**

Act 23, 1902.

One per cent of principal sum to be set apart annually from revenue.

10. The Board shall, half-yearly, commencing from the 1st day of January, 1903, appropriate and set apart from the revenues of the Board a sum of money not less than one per centum of the principal moneys borrowed under this Act, and such sum shall be paid to such persons not being less than two in number as shall be named by the Governor in Council as trustees for the sinking fund hereinafter provided for.

Sinking fund.

11. The trustees shall accumulate the money so paid to them to form a sinking-fund for the repayment of the loan authorised by this Act, by investing the same and the income thereof in some one or more securities of the Imperial Government of Great Britain, or of the Government of a Colony of Great Britain, or other securities approved by the Governor in Council.

Redemption of debentures.

12. The trustees may from time to time apply any part of the sinking fund in the purchase of debentures issued under this Act. All debentures so purchased, and the interest coupons attached thereto, shall be immediately cancelled and destroyed.

Application of sinking fund.

13. Subject as last aforesaid, the sinking fund shall be applied in payment, as and when the same shall become due, of the principal moneys for the time being owing on debentures issued under this Act.

Act No. 2, 1903.

“ To amend the Indian Immigration Amendment Act, 1895.”

[3rd March, 1903.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Application of Act.

1. This Act shall, save as is specially excepted, apply to the children of all Indian immigrants coming within the provisions of Section 2 of Act No. 17, 1895, whether such children shall have been born before or after the arrival of their parents in Natal.

Exceptions.

2. This Act shall not apply to any person who shall have attained the age of majority (that is to say in the case of males sixteen years and in the case of females thirteen years) before the date of the taking effect of this Act, or to any lawfully begotten child born in Natal, whose father was not at the time of its birth subject to the provisions of Act No. 17, 1895, or to the grandchildren or any later descendants of Indians to whom Act No. 17, 1895, applies.

3. Every Indian child to whom this Act applies shall, upon attaining the age of majority, be obliged :

- (a) To go to India, or
- (b) To remain in Natal under indentures similar to and renewable in the same manner as the reindenture referred to in Act No. 17, 1895, as amended by subsequent Acts, or
- (c) to take out year by year, in terms of Section 6 of Act No. 17, 1895, a pass or license to remain in the Colony (a) :

Act 2, 1903.

Obligations imposed upon Indian children to whom Act applies.

Provided, however, that if such child attains majority before the completion of his father's first or any subsequent indenture, the operation of this section shall be suspended until the completion of such indenture.

In the case of a child whose father is dead or not in Natal, or whose mother was unmarried at the time of the child's birth, the above reference to the father's indenture shall be deemed to apply to the mother's indenture.

4. A child to whom this Act applies shall be entitled to a free passage to India in order to enable him to proceed thither at the end of the first or any renewed term of indenture of his father (or of his mother, as the case may be).

Free Passage to India.

The right to a free passage shall however be lost

- (a) If the father, or as in the above case, the mother, shall have completed a term of indenture during the child's minority and shall not have returned to India or entered into a fresh indenture in terms of Act No. 17, 1895.
- (b) If the child does not go to India by the first opportunity available to him after attaining his majority or after the end of a term of indenture entered into under this Act.

5. The provisions of Act No. 17, 1895, and of all Laws and Acts construed therewith shall, so far as may be consistent with this Act, extend to all persons to whom this Act applies.

Joint construction of Acts.

6. This Act shall not come into operation unless and until the Governor notifies by Proclamation in the *Natal Government Gazette* that it is His Majesty's pleasure not to disallow the same, and thereafter it shall come into operation upon such day as the Governor shall notify by the same or any other Proclamation (b).

Commencement.

(a) As to date of expiry of such license, see Act 39, 1905, s. 1, post.

(b) See Procl. No. 7, 1904, published in the *Natal Government Gazette* of 26 January, 1904.

Act No. 39, 1905.

“To amend Act No. 17, 1895, entitled Act ‘To amend the Indian Immigration Law of 1891.’”

[2nd December, 1905.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Expiry of Licenses.

1. Every license hereafter issued under Section 6 of Act No. 17, 1895, and under Act No. 2, 1903, shall expire on the 30th day of June next following the date on which it was issued.

Fee for first license or renewal.

The fee for the first license for which an Indian becomes liable, or for the first renewal of a license current at the date of the passing of this Act, shall be calculated at the rate of Five Shillings (5s.) Sterling a month for every month up to the following June, but exclusive of the month in which the license becomes due.

Employment of unlicensed Indian Immigrants prohibited.

2. No person shall employ, whether as a servant or as an employee in any other capacity, any Indian Immigrant who is required by Act No. 17, 1895 or by Act No. 2, 1903, to take out an annual pass or license to remain in the Colony, unless such Indian shall first produce to him the pass or license then current, nor shall he retain such Indian as an employee in any year thereafter unless such pass or license shall have been taken out before the 15th day of July in each year.

Penalty.

3. Any person contravening this Act shall be liable, for every month or part of a month in which he shall have unlawfully employed an Indian Immigrant, to a fine not exceeding Five Pounds (£5) Sterling.

Contracts in contravention of this Act invalid.

4. No person shall have the right to enforce at law any contract of service made or continued in disregard of this Act, or to charge the Indian so employed with any offence under the law relating to masters and servants.

Payment of fee by employer.

5. An employer may himself pay the fee due for a pass or license under Act No. 17, 1895, or under Act No. 2, 1903, for an Indian Immigrant employed by him, and may deduct the amount so paid from the wages of the Indian.

Hawker's and traders' Licenses: when granted.

6. No hawker's license under the License and Stamp Acts, and no license as a trader in the Province of Zululand shall be granted to any Indian who is required by Act No. 17, 1895, or under Act No. 2, 1903, to take out a pass as aforesaid, unless such pass for the then current year be produced to the Licensing Officer,

Act No. 42, 1905.

“To amend the Laws relating to Indian Immigration.”

[21st December, 1905.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. Any Indian Immigrant who has formerly served under indenture in pursuance of the laws relating to Indian Immigration may enter into a further term of indenture for not less than two years and not more than five years, notwithstanding that an interval of time may have passed since the termination of the former indenture, and such indenture may be renewed from time to time for similar terms, whether immediately upon the expiry of the previous indenture or afterwards. Re-indenture.

All such indentures shall be entered into in manner prescribed by section 107 of Law No. 25, 1891, as amended by section 4 of Act No. 14, 1897.

2. The rate or rates of wages to be paid under indentures entered into in pursuance of this Act shall be such as may be agreed upon between the parties. Wages.

3. The provisions of Law No. 25, 1891, and of any Acts amending the same shall *mutatis mutandis* apply to such indentures as aforesaid, and to the parties thereto, and an Indian Immigrant shall upon the conclusion of any term of indenture under this Act be entitled to the rights conferred by section 110 of Law No. 25, 1891, aforesaid. Application of Law 25, 1891, and amending Acts.

The provisions of section 2 of Act No. 48, 1901, shall apply in respect of indentures under this Act.

4. Nothing in this Act shall affect the renewal of indentures in terms of section 107 of Law No. 25, 1891, or Act No. 17, 1895, or indentures entered into under Act No. 2, 1903. Renewals of Indenture under Law 25, 1891, or Indenture under Act 2, 1903, not affected.

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Act No. 30, 1903.

“To place closer restrictions on Immigration.”

[13th September, 1903.]

WHEREAS it is expedient to place closer restrictions on immigration into the Colony, and to provide for the removal from the Colony of prohibited immigrants:

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

PART I.

1. This Act shall be known as the “Immigration Restriction Act, 1903” (a). Short title.

2. Act No. 1, of 1897, known as the “Immigration Restriction Act, 1897,” is hereby repealed. Repeal.

3. The repeal of the said Act No. 1 of 1897, shall be without prejudice to anything done or suffered or any order given or liability incurred thereunder or to any penalty or punishment imposed in respect of any offence under the said Act or to any legal proceedings commenced in respect of any matter under the said Act, and any such legal proceedings may be carried on as if this Act had not been passed. Any regulations made under Act No. 1 of 1897 shall, save so far as they may be inconsistent with this Act, remain in force until revoked by regulations made under this Act. Former Acts, &c., not affected by repeal.

4. This Act shall not apply to:— Exemptions.

(a) Any person possessed of a certificate in the form set out in Schedule A of this Act, and signed by the Minister having charge of the administration of this Act (hereinafter referred to as the Minister) or by the Agent-General of Natal, or any officer appointed by the Natal Government for the purpose of this Act whether in or out of Natal.

(a) See limitations of this Act in sec. 6 of Act No. 7, 1904, post.

Act 30, 1903.

- (b) Any person of a class for whose immigration into Natal provision is made by Law or by a scheme approved by Government.
- (c) The officers and crew of any vessel of His Majesty's Fleet or of the Fleet of any friendly Power.
- (d) Any member of His Majesty's Military forces.
- (e) Any person duly accredited to Natal by or under the authority of the Imperial or any other Government.
- (f) Any person who shall satisfy an officer appointed under this Act that he has been formerly domiciled (a) in Natal, and that he does not come within the meaning of any of the Sub-sections (c), (d), (e), (f), (g) of Section 5 of this Act.
- (g) The wife, and any child appearing to the Immigration Restriction Officer to be under the age of 16 years, of a person not being a prohibited immigrant, except subject to Sub-sections (c), (d), (e), (f), (g) of Section 5 of this Act (b).

Prohibited immigrants.

5. The immigration into Natal, by land or sea, of any person being or appearing to be of any of the classes defined by the following sub-sections, hereinafter called "prohibited immigrant," is prohibited, namely:—

- (a) Any person who, when asked to do so by any duly authorised officer, shall be unable through deficient education to himself write out and sign, in the characters of some European language, an application to the satisfaction of the Minister.
- (b) Any person without visible means of support or any person who is likely to become a pauper or a public charge.
- (c) Any idiot or insane person.
- (d) Any person suffering from a loathsome or dangerous contagious disease.
- (e) Any person who, not having received a free pardon, has been convicted in any country of treason, murder, or any crime for which a sentence of imprisonment has been passed for any term, and who, by reason of the circumstances connected therewith, is deemed to be an undesirable immigrant.
- (f) Any prostitute, and any person living on or receiving,

(a) See Act No. 3, 1906, s. 1, post, as to the meaning of "domiciled." See also sec. 32, post.

(b) See Act No. 1, 1906, s. 3, post.

or who may have lived on or received, any part of the proceeds of the prostitution of others. **Act 30, 1903.**

- (g) Any person deemed by the Minister to be an undesirable immigrant in consequence of information or advice received from any Secretary of State or Colonial Minister, or through diplomatic channels or any Minister of a Foreign Country or from any other trusted source.

PART II.

6. Any police officer, or other officer appointed under this Act may, subject to the exceptions hereinafter contained, prevent any prohibited immigrant from entering Natal by land or sea. **Powers of police to prevent entry.**

7. Any prohibited immigrant making his way into, or being found within, Natal, in disregard of the provisions of this Act, shall be deemed to have contravened this Act. Any person convicted under this section may, in addition to liability to removal or otherwise, be imprisoned with or without hard labour for any term not exceeding six months: Provided that such imprisonment shall cease if and when arrangements are made for the deportation of the offender from the Colony (a). **Unlawful entry of prohibited immigrant.**

8. No person who comes within the definition of a prohibited immigrant shall be released from the operation of this Act, or allowed to be or remain in the Colony, merely because he has not been notified not to land, or because he may have been allowed to land through oversight or through want of knowledge that he was a prohibited immigrant (b). Proof adduced within twelve months after any person has entered the Colony that he is of any of the classes whose entry is prohibited, shall be sufficient evidence that such person was a prohibited immigrant, and such person shall be liable to be then dealt with as a prohibited immigrant. **Prohibited immigrant not released from Act by mere entry.**

9. If there shall be reasonable cause to suspect that any person has contravened this Act, and if in order to prevent justice from being defeated, it is necessary to arrest such person immediately, it shall be lawful for any Immigration Restriction or Police Officer to arrest such person forthwith, without having a warrant for that purpose, and he shall be required to bring such person before a Magistrate as soon as may be, or should the ship from which such person landed be on the point of departure, **Summary arrest.**

(a) An indictment under this sec., too vague and conviction was quashed where accused had been in the Colony (*Mungalal v. Rex*, 25 N.L.R., 236). before the Act was passed, held to be (b) See *Mungalal v. Rex*, ubi supra.

Act 30, 1903. then such person may be handed over to the custody of the Master of the ship, who shall be obliged to receive and keep him on board.

Entry permitted under certain conditions.

10. Any person appearing to be a prohibited immigrant within the meaning of Section 5 of this Act, and not coming within the meaning of any of the Sub-sections (c), (d), (e), (f), (g) of the said Section 5, may be allowed to enter Natal upon the following conditions:—

- (a) He shall, before landing, himself deposit with an officer appointed under this Act the sum of One Hundred Pounds Sterling.
- (b) If such person shall, within one week after entering Natal, obtain from the Minister or a Magistrate a certificate that he does not come within the prohibition of this Act, the deposit of One Hundred Pounds Sterling shall be returned.
- (c) If such person shall fail to obtain such certificate within one week, the deposit of One Hundred Pounds Sterling may be forfeited and he may be treated as a prohibited immigrant.

In case of any person entering Natal under this section, no liability shall attach to the vessel or to the owners of the vessel in which he may have arrived at any port of the Colony.

Disabilities of prohibited immigrant.

11. A prohibited immigrant shall not be entitled to a license to carry on any trade or calling, nor shall he be entitled to acquire land in leasehold, freehold, or otherwise, or to exercise the franchise, or to be enrolled as a burgess of any borough or on the roll of any township; and any license or franchise right which may have been acquired in contravention of this Act shall be void.

Contract for return of prohibited immigrant.

12. The Government may authorise the Principal Immigration Restriction Officer to make a contract with the Master, owners, or agent of any vessel for the conveyance of any prohibited immigrant found in Natal to a port in or near to such immigrant's country of birth, and any such immigrant with his personal effects may be placed by a police officer on board such vessel, and shall in such case, if destitute, be supplied with a sufficient sum of money to enable him to live for one month according to his circumstances in life after disembarking from such vessel.

Bringing insane persons into Colony.

13. Any person who shall be instrumental in bringing into Natal any idiot or insane person without a written or printed authority, signed by the Minister, shall be deemed to have contravened this Act, and in addition to any other penalty shall be liable for the cost of the maintenance of such idiot or insane person whilst in the Colony.

14. Any officer for the purposes of this Act shall be empowered to board as often as may be necessary all ships entering inward at any port of the Colony in the performance of his duties under this Act.

Act 30, 1903.

Officer may board all ships

15. The Master of a ship arriving at Natal shall, upon being thereto requested by the Immigration Restriction Officer at the Port, furnish to him a list, in duplicate, signed by himself, of all passengers and other persons then on board not forming a portion of the regular crew of the vessel.

List of passengers may be required.

16. A Master shall also, if required thereto prior to his departure from Port, produce his Articles and muster his crew, and if it be found that any person named on the Articles, and who, in the opinion of the Immigration Restriction Officer, would be a prohibited immigrant, is not then present, such person shall be deemed to have entered the Colony contrary to this Act, but the Master and Agents of the ship, provided they have made proper provision for police protection, shall not be responsible for any contravention of the provisions of this section.

Crew may be required to be mustered before departure: Absence of person who would be prohibited immigrant.

17. If the Immigration Restriction Officer shall declare to the Master of a ship arriving at the Port that there are persons on board who belong to the class of prohibited immigrants, and should the Master thereupon represent that for the better security against infringement of the Act it is desirable that such prohibited immigrants should be kept in some other place during the ship's stay in Port, the Immigration Restriction Officer may, in such case, should he think fit, cause such prohibited immigrants to be removed in proper custody from the ship to, and be detained in, any place on shore, or any hulk or craft in the Bay, which may be set apart by the Government for the purpose. Such prohibited immigrants shall be returned to the ship when she is about to sail, of which due notice shall be given by the Master to the Immigration Restriction Officer. The cost of the landing or removal, detention, maintenance and control of the prohibited immigrants, so temporarily removed from the ship, and all contingent expenses, shall be borne by the Master of the ship, who shall be solely responsible for the proper rationing of the prohibited immigrants so removed, and for providing them with bedding and other necessaries requisite to maintain them in the place of detention in the degree of comfort which they would have enjoyed had they not been removed from the ship, or to which they might be entitled under any contract or agreement subsisting between such prohibited immigrants and the Master or owners of the ship. The Immigration Restriction Officer may, before assuming the custody of any prohibited immigrant,

Detention of persons of prohibited immigrant class during ship's stay.

Expenses to be borne by ship.

Act 30, 1903. require the Master and owners, or agents of the ship, to deposit with him, or give a sufficient guarantee of a sum sufficient to defray any expenses that may be incurred by the Government in connection therewith.

Escape of person so detained.

18. If any prohibited immigrant shall escape from the place of detention contemplated by the next preceding section, or from any lawful custody in going thereto or returning therefrom, he may be taken by any officer of police and brought back, and shall also be liable to punishment for contravention of Section 7 of this Act.

Punishment by Magistrate of a member of crew. Order for return, in custody, to ship.

19. Should the master of a ship charge any member of his crew, or stowaway, or extra hand before a local Court with a crime or offence committed at some time prior to arrival, or during his vessel's stay in Port, the Magistrate may, at the request of the Immigration Restriction Officer, and on representation by the Immigration Restriction Officer that the accused is a prohibited immigrant, in awarding punishment, order that, on expiry of the sentence, or on the sooner readiness of his vessel to proceed to sea, the prisoner be taken from goal and conducted in custody aboard his ship for conveyance away from the Colony. Any person contemplated by this section, brought before a Magistrate and discharged, shall be ordered by the Magistrate to be immediately conveyed back to his ship. An order shall not be made under this section in any case in which the Magistrate deems the crime proper for trial in a higher Court.

Regulation of intercourse from shore with vessel having prohibited immigrants.

20. Whenever it shall be deemed necessary for the effective carrying out of this Act to regulate intercourse from the shore with any vessel at the Port having on board any prohibited immigrant, the Principal Immigration Restriction Officer may take such steps, with the approval of the Minister, as may appear proper in that behalf.

Liability of Master and owners of ship from which prohibited immigrants have landed.

21. The Master and owner of any ship from which any prohibited immigrant may be landed or may land shall be liable jointly and severally to a penalty of One Hundred Pounds Sterling (which said sum may be reduced to any sum not less than Twenty-five Pounds Sterling) in respect of each such prohibited immigrant landed or who may land, and the vessel may be refused a clearance outward until any penalty incurred has been paid, and until provision has been made by the Master to the satisfaction of the Immigration Restriction Officer for the conveyance out of the Colony of each prohibited immigrant who may have been so landed, and the vessel may be made executable by a decree of the Supreme Court in satisfaction of any penalty imposed under this section.

The word "clearance" as used in this Act includes all the documents ordinarily issued by the Collector of Customs to a ship about to leave Port, including the document known as the Bill of Health. Act 30, 1903.
"Clearance."

PART III.

22. Any person being a prohibited immigrant within the meaning of this Act may apply to the Immigration Restriction Officer, or other officer thereto appointed, for a pass to enter Natal for a temporary visit or for the purpose of embarking at the Port for some other country. Such passes shall be known as Visiting Passes and Embarkation Passes respectively, and shall be in the forms prescribed by the Regulations made under this Act. The words "the Port" mean any port in Natal. Visiting passes
and Embarka-
tion passes.

23. The applicant shall attend before such officer and shall answer all such questions as the officer may put in order to satisfy himself that the pass ought to be granted, and shall deposit with him the appointed sum of money, that is to say:— Attendance
before officer
and deposits.

For a Visiting Pass the sum of Ten Pounds Sterling, together with an additional sum of Ten Pounds Sterling where the pass includes the wife and children of the applicant;

For an Embarkation Pass the sum of Ten Pounds Sterling for each adult, and Five Pounds for each child.

The word child, as used in this and the succeeding sections means a person appearing to the officer to be under the age of sixteen years.

24. Except in the case of a person accompanied by his wife and children a separate pass shall be required for each person seeking to enter Natal for the purpose of a visit or for embarking. Separate
passes
required.

25. No person shall be entitled of right to obtain a Visiting Pass or an Embarkation Pass, and the officer appointed to issue such passes shall have the discretion to grant or refuse any such pass, subject, however, to any direction which may be given him by the Principal Immigration Restriction Officer or by the Minister. Discretion to
refuse passes.

26. A Visiting Pass shall be a sufficient authority for the person or persons named therein to enter the Colony of Natal and to remain there during the period stated in the pass. Such period shall not exceed twenty-one days, but any officer appointed under the Act may, for sufficient reason appearing, extend the period from time to time by an endorsement on the pass. No extension shall be made for more than fourteen days at a time, Duration and
effect of visit-
ing pass.

Act 30, 1903.

and no such pass may be extended beyond six weeks from the date of the pass, except with the consent of the Minister.

Return of deposit.

27. The money deposited for a Visiting Pass shall be returned to the depositor upon the passholder quitting the Colony within the time named in the pass or any extension thereof.

Effect of embarkation pass.

28. An Embarkation Pass shall be a sufficient authority for the person or persons named therein to enter Natal and to proceed with all reasonable speed to the Port for the purpose of embarking by the first available opportunity for the destination stated in the pass.

Extension.

29. An Embarkation Pass shall not be extended except by the Principal Immigration Restriction Officer for sufficient cause to him appearing.

Disposal of deposit for embarkation pass.

30. The money deposited for an Embarkation Pass shall be at once transmitted to the Principal Immigration Restriction Officer at the Port, to be by him applied, on the application of the person to whom it was granted, and so far as the sum deposited shall suffice for the purpose, in obtaining a passage for the person or persons named to the specified place or destination. Any balance of the money deposited shall be returned to the depositor upon the sailing of the ship, or may, in the discretion of the officer, be expended in any other necessary or proper manner by desire of the depositor.

Penalty for overstaying time allowed by pass: Other offences.

31. Any person being a prohibited immigrant within the meaning of the Act, who shall enter Natal in pursuance of a Visiting Pass or an Embarkation Pass, and who shall remain in Natal beyond the time allowed by such pass, or by a lawful endorsement thereof, or who may misuse the pass, or allow any fraudulent use to be made of it, shall be deemed to have contravened this Act, and shall, [upon conviction (a)] suffer forfeiture of the amount deposited by him, and render himself liable to the punishment prescribed by Section 7 of the Act.

Exemption by residence.

32. The provisions of Sub-section (f) of Section 4 shall extend to any person who shall satisfy an officer appointed under this Act that he has formerly resided in Natal, that is to say who has had his ordinary place of residence in Natal for a period of not less than three consecutive years: Provided, however:

- (a) That nothing in this section shall diminish the rights of any person who has had his domicile (b) in Natal as distinguished from residence as above defined.
- (b) That no person shall be entitled to claim the benefits of this section merely by reason of residence in

(a) Words in brackets are repealed by Act No. 3, 1906, s. 5, post.

(b) See Act No. 3, 1906, s.1, post, as to the meaning of "domicile."

Natal under indenture of service, or the like, entered into in pursuance of any laws for the introduction of servants or labourers or otherwise. **Act 30, 1903.**

33. A certificate granted by the Immigration Restriction Officer, stating that the person named and described therein has been formerly resident or domiciled in the Colony within the meaning of this Act, shall be *prima facie* evidence of such former residence or domicile. **Certificate of residence or domicile.**

PART IV.

34. Any person appearing to an officer under this Act to be over the age of sixteen years shall be regarded as an adult for the purposes of this Act. **Person over 16 years to be regarded an adult.**

35. The Governor may appoint officers for the purpose of carrying out the provisions of this Act, one of whom shall be a principal Immigration Restriction Officer, and may define the duties of such officers, and such officers shall carry out the instructions from time to time given to them by the Minister or by the Principal Immigration Restriction Officer. **Officers for carrying out Act.**

36. The Governor in Council may, from time to time, make, amend, and repeal regulations for the better carrying out of the provisions of this Act (a). **Regulations.**

37. Any person who shall by false declaration obtain, or seek to obtain, either for himself or for another person, neither being entitled thereto, any certificate or document intended to secure the entry into the Colony of any person in violation of the provisions of this Act, and any person who may fraudulently use any such certificate, or other document, shall be guilty of a contravention of this Act. **Offence of falsely obtaining documents, &c.**

38. The following shall be contraventions of this Act :— **Contraven-tions.**

- (a) Assisting any prohibited immigrant to enter the Colony or knowingly being a party to the introduction of any person of the class (f) of Section 5 of this Act.
- (b) Aiding or abetting a prohibited immigrant or any other person in any contravention of this Act or of the Regulations.
- (c) Resisting or obstructing, actively or passively any officer in the execution of his duty.
- (d) Wilfully disobeying or disregarding any obligation imposed by, or any lawful order made under, this Act or the Regulations.

(a) See Act No. 3, 1906, s.4, post.

Act 30, 1903.

Penalties.

39. Every person guilty of a contravention of this Act or of any regulation passed thereunder shall, where no penalty is expressly imposed, be liable to a fine not exceeding Fifty Pounds Sterling, or, in default of payment thereof, imprisonment with or without hard labour for a period not exceeding six months, or he may be sentenced to such imprisonment as aforesaid without the option of a fine.

Penalty incurred by master of ship.

Detention of ship.

40. Any penalty incurred by the Master of a ship shall be paid before the ship's clearance is granted. Notice in writing by the Immigration Restriction Officer to the Collector of Customs of any claim against the Master, owners or agents of a ship for a penalty shall be a sufficient authority to him to refuse the ship's clearance until such order is withdrawn or is set aside by the order or judgment of a Court. Such a notice to the Port Captain or Harbour Master shall be authority to him to refuse to take a ship or allow it to go outside the Bay to any outer harbour or anchorage. When such notice is given the Immigration Restriction Officer shall with all speed inform the Minister and take all such steps as may be necessary in order that proceedings in respect of the contravention may be instituted without loss of time.

Enforcement of money penalty.

41. The enforcement of any money penalty may be either by criminal prosecution or by civil action at the instance of the Immigration Restriction Officer. All contraventions of this Act or of the Regulations for which no special punishment is awarded, or for which no greater punishment than a penalty of One Hundred Pounds Sterling or imprisonment with or without hard labour is imposed, shall be cognizable by the Courts of Magistrates, who may in respect of any such contravention impose a penalty or punishment up to the said limits. Such imprisonment may in any criminal prosecution be awarded either absolutely or in default of the payment of a penalty. Notwithstanding the foregoing provision, the Magistrate having jurisdiction at any Port where a ship is detained under authority of this Act shall have jurisdiction in any civil suit wherein a penalty not exceeding Five Hundred Pounds Sterling is claimed from the Master or owners or agents of the ship.

Magistrate's jurisdiction.

SCHEDULE "A" (No.).

Act 30, 1903.

COLONY OF NATAL IMMIGRATION RESTRICTION ACT, 1903.

(TO WHOM IT MAY CONCERN.)

This is to certify that the person hereunder described is a fit and proper person to be received as an Immigrant into Natal.

Dated at

This day of 190 .

Signature.

DESCRIPTION.

Name.

Nationality.

Age.

Trade or calling.

Married or single.

Height. ft. ins.

General Description.

Marks.

Signature of holder.

.....

Act No. 7, 1904.

"To make provision with regard to persons brought to Natal in pursuance of a scheme for the introduction of labourers into a neighbouring colony or territory."

[18th June, 1904.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. Whenever a scheme shall have been adopted or approved by the Government of any British Colony or Possession in South Africa for the introduction of labourers from oversea, the Governor in Council may, by proclamation, declare that this Act shall apply to all the persons to be introduced under such scheme, as labourers or otherwise, males as well as females, and their

Application of Act.

Act 7, 1904. children, whether born in this Colony or elsewhere, and thereupon it shall be lawful, notwithstanding anything contained in the Immigration Restriction Act, 1903, for all such persons brought to Natal in pursuance of such scheme to enter and pass through this Colony, subject to the provisions of this Act (*a*).

Definition. Such persons are in this Act referred to as "transit immigrants."

Authority to make Regulations.

2. The Governor may from time to time make and alter regulations providing for everything which may be deemed proper for carrying out this Act, and for giving full and complete effect to the scheme for the introduction of labourers and for all matters and things whatsoever, nothing excepted, provided that they be not in conflict with this Act.

Regulations.

3. Such regulations may, amongst other things, and without derogation from the powers given as aforesaid, make special provision for the following matters:—

- (*a*) The entry of transit immigrants into Natal and the requirements to be observed before debarkation, whether as to giving pratique to ships, or as to the examination, inspection, or disinfection of such immigrants or of their effects.
- (*b*) The landing of transit immigrants, their detention in a compound, location or elsewhere.
- (*c*) The feeding, housing, and proper treatment of transit immigrants.
- (*d*) The powers, authorities, and duties of the persons entrusted with the charge of transit immigrants.
- (*e*) The conveyance and transit of such immigrants through and out of Natal.
- (*f*) The rules to be observed by transit immigrants.
- (*g*) The custody of transit immigrants whilst in and passing through Natal, the power of guards, constables, and others to enforce obedience to the rules, or to arrest and bring back deserters or those who may be found away from the party to which they belong.
- (*h*) The arrest, detention, mode of dealing with, and the removal from the Colony of transit immigrants who may come into Natal after being conveyed therefrom under this Act.

(*a*) The provisions of this Act were made applicable to a scheme adopted by the Transvaal Colony, by Procl. No. 70, 1904, published in *The Natal Government Gazette* of 12th July, 1904.

- (i) The conveyance and transit of immigrants through and out of Natal when returning or being sent back in pursuance of such scheme as aforesaid, and for all such matters connected with such return as are provided for in regard to the introduction of transit immigrants. **Act 7, 1904.**

4. It shall be the duty of all Magistrates, police constables, and other officers of the law to aid and assist in enforcing the regulations and lawful orders relative to transit immigrants and in preventing the desertion or escape of such immigrants. **Duties of Magistrates and Police.**

5. No person shall aid or abet a transit immigrant to desert from the party of transit immigrants with which he arrived in the Colony or to resist or obstruct any officer in the execution of his duty or to contravene any of the regulations made under or referred to in this Act. **No person to aid or abet contraventions.**

6. The Immigration Restriction Act, 1903, shall not apply to or in respect of any transit immigrant coming within the provisions of this Act: Provided and excepted that the Governor in Council may, by Proclamation, from time to time, direct that any part of the said Act of 1903, or the regulations thereunder, shall so apply, and in such case the said Act or the regulations thereunder shall apply to such immigrants to the extent specified in the Proclamation. **Immigration Restriction Act, 1903, not to apply to Transit Immigrants. Exception.**

Any such Proclamation may, from time to time, be varied or revoked by a like proclamation.

7. Every person guilty of a contravention of this Act, or of any regulation made thereunder, or made applicable to transit immigrants, shall be liable on conviction before a Magistrate to a fine not exceeding Fifty Pounds (£50) Sterling, or in default of payment thereof, imprisonment with or without hard labour for a period not exceeding six months, or he may be sentenced to such imprisonment, as aforesaid, without the option of a fine. **Penalties**

8. Any Chinese or other person belonging to a race from which transit immigrants are at any time being brought to South Africa, but who is not himself a transit immigrant, may, on application to the Magistrate of his Division, and on satisfying the Magistrate that he is lawfully resident in Natal, obtain from him a certificate showing that such person is a resident of Natal. **Certificate of Residence.**

The certificate shall be in such form, and shall contain such particulars as may be prescribed by the regulations.

Only one person shall be named in any certificate, but certificates may be granted upon application of a parent for the several members of his family.

Act 7, 1904.Protection of
Persons hold-
ing same.

9. The possession of such a certificate as aforesaid shall protect the person named therein from being dealt with under the provisions of this Act with regard to transit immigrants.

Offence of
falsely obtain-
ing Certificates

10. Any certificate obtained by fraud or false representations shall be void, and any person by whom a certificate has been so obtained, or who shall knowingly use such a certificate, shall be guilty of the crime of falsity.

Register of
Certificates.

11. A register shall be kept by every Magistrate of the persons to whom certificates have been issued.

Short Title.

12. This Act may be known as the "Transit Immigrants Act, 1904."

Act No. 3, 1906.

"To amend the Immigration Act, 1903."

[19th January, 1906.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Meaning of
domicile.

1. The reference to domicile in section 4 (f) and section 32 (a) of the Immigration Restriction Act, 1903, shall apply only to domicile acquired by residence in Natal on the part of the person seeking to enter the Colony and not to domicile acquired in any other manner.

Requirements
for granting
certificate of
domicile.

2. Any person applying for a certificate of domicile or seeking to obtain any exemption in virtue of former domicile shall be required to satisfy the proper officer that at the time when he began to reside in the Colony he was not a prohibited immigrant within the meaning of the Immigration Restriction Act of 1897 or that of 1903, if either of the said Acts was in force at that time, or that if he was such he lawfully became resident in Natal according to the provisions of such of the said Acts as was then in force.

Requirements
in respect of
exemption of
wife or child.

3. Any person seeking to take advantage of the exemption given to a wife or child by section 4 (g) of the said Act shall be required to satisfy the Immigration Restriction Officer or other proper officer that the woman or child is in fact the wife or child of a person who is not a prohibited immigrant within the meaning of the Act and who is at the time resident in Natal.

Regulations
under Act 30,
1903.

4. The regulations under the said Act may provide for charging such fees as may be reasonable for any certificates,

passes and documents of a like character granted in terms of the **Act 3, 1906.**
Act or regulations.

5. The words "upon conviction," occurring in Section 31 of the principal Act, shall be expunged. Amendment of Sec. 31, Act 30, 1903.

IMMORALITY.

[See "CRIMINAL LAW."]

IMPORTATION (PROHIBITED).

[See "PLANTS (DISEASED)"; see also Act No. 9, 1906, sec. 16,
tit. "REVENUE."]

INDECENT ASSAULT.

[See "CRIMINAL LAW."]

INDEMNITY LAW.

Act No. 15, 1900.

“To indemnify the Governor of the Colony, and the Officer Commanding Her Majesty’s Forces in Natal, and all persons acting under their authority and in good faith in regard to acts during the existence of Martial Law.”

[30th June, 1900.]

WHEREAS a state of war has recently existed, and is still existing, between Her Majesty’s Government and the Government of the South African Republic, and between Her Majesty’s Government and the Government of the Orange Free State :

AND WHEREAS, by reason of the existence of such state of war, it became necessary for the preservation of good order and for the protection of Her Majesty’s subjects in this Colony for His Excellency the Governor, on the 15th day of October, 1899, to proclaim and make known that the Magisterial Divisions of Newcastle, Dundee, Umsinga, Klip River, and Upper Tugela, in this Colony, should be placed under Martial Law :

AND WHEREAS on the 23rd day of October, 1899, it became further necessary for His Excellency to proclaim and make known that the whole of this Colony, including the Province of Zululand, should be placed under Martial Law :

AND WHEREAS military operations have been necessarily carried on in this Colony during the existence of such state of war as aforesaid, and for the proper carrying out of such operations and for the maintenance of good order and government, His Excellency the Governor and the Officer for the time being commanding Her Majesty’s Forces in this Colony, and the Military, Volunteer, and Civil authorities of this Colony, may be responsible in person or purse for acts done by them in good faith in pursuance of such objects as aforesaid :

AND WHEREAS it is expedient that all persons whosoever, who in good faith have acted whether before, after, or during the existence of such Martial Law, for the suppression of hostilities and the maintenance of good order and government, should be indemnified and kept harmless :

BE IT THEREFORE ENACTED by the Queen’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

Act 15, 1900.

1. All actions, indictments, and legal proceedings, civil, criminal, or mixed, against His Excellency the Honourable Sir Walter Francis Hely-Hutchinson, G.C.M.G., Governor of Natal, or the Officer for the time being commanding Her Majesty's Forces in Natal, or against any such authorities or officers, Civil, Military, or Volunteer, or other persons acting as aforesaid, for or by reason of any matter or thing commanded, ordered, directed, or done for the suppression of hostilities or the maintenance of good order and government, or for the public safety, whether done before, during, or after the existence of Martial Law (a), but in furtherance of the objects for which it became necessary to proclaim Martial Law, shall be discharged and become and be made void; and every person by whom such act, matter, or thing shall have been advised, commanded, ordered, directed, or done for the purposes aforesaid, whether before, during, or after the existence of such Martial Law, shall be freed, acquitted, discharged, released and indemnified against all and every person and persons whomsoever in respect thereof.

Indemnification of the Governor and other authorities and persons from proceedings in respect of certain acts.

2. All officers and other persons who have acted under the authority of His Excellency the Honourable Sir Walter Francis Hely-Hutchinson, G.C.M.G., as Governor of this Colony or as Supreme Chief of the Native population, or any officer acting under him, or under the authority of the General Officer Commanding Her Majesty's Forces in Natal, or who have acted *bona fide* for the purposes and during the time aforesaid, are hereby indemnified in respect of all acts, matters, and things done in the suppression of hostilities and the maintenance of good order and government and the public safety; and such acts so done are hereby made and declared to be lawful and are confirmed.

Indemnification of persons who have acted under authority of the Governor &c., or who have acted *bona fide* in the suppression of hostilities or maintenance of order.

3. All sentences passed by any Court Martial or by any Court or person exercising judicial functions under the authority of the General Officer Commanding Her Majesty's Forces in Natal, or of any officer of Her Majesty's Forces purporting to exercise authority in that behalf, since the date of the aforesaid Proclamation of 15th October, 1899, which sentences have been passed upon persons not ordinarily subject to Military Law in respect of acts, crimes, or offences committed during the existence of Martial Law as aforesaid, are hereby confirmed and approved, and in so far as the same shall not have been already carried into effect, shall be deemed to be sentences passed by duly and legally constituted Courts of this Colony, and shall be

Sentences of Courts Martial and military tribunals.

(a) For definitions of the term "Martial Law," by Gallwey, C.J., and Mason, J., see 2 N.L.J. 86.

Act 15, 1900. and remain in force and shall be carried out in the same manner as the sentences of the Courts of Law of this Colony.

Governor's certificate as to acts done under authority or *bona fide*

4. His Excellency the Governor at any time, in order to prevent or remove any doubt which might exist or may arise whether any act alleged to have been done under the authority of the Governor or of the Supreme Chief, or under the authority of the General Officer Commanding Her Majesty's Forces in Natal, or to have been done *bona fide* for any of the purposes aforesaid, was so done, may by a certificate in writing under his hand declare such acts to have been done, either under such authority or *bona fide* for the purposes aforesaid: and any such certificate under the hand of the Governor for the time being, shall in all cases be conclusive evidence that such acts were so done respectively.

Suspension of Acts of Parliament.

5. Any order heretofore made by His Excellency the Governor, or under his authority, since the date of the before-recited Proclamation of 23rd October, 1899, for suspending the operation of any Act of Parliament, or of any part thereof is hereby confirmed, and shall be of legal force until the same shall be revoked by order of His Excellency the Governor.

Indemnity for payments made from revenue

6. His Excellency the Governor and the Colonial Treasurer of Natal and all other persons concerned shall be indemnified and kept harmless in respect of any payments which have been made by the Colonial Treasurer from the Consolidated Revenue Fund for meeting expenses occasioned by the state of war heretofore subsisting, but which have not been authorised by an Act of Supply.

Act No. 41, 1901.

“To indemnify the Governor of the Colony, and the Officer Commanding His Majesty's Forces in Natal, and all persons acting under their authority and in good faith, in regard to acts during the existence of Martial Law.”

[26th August, 1901.]

WHEREAS the state of war mentioned in Act No. 15, 1900, still continues, and the Proclamation of the 23rd day of October, 1899, placing this Colony under Martial Law remains in force:

AND WHEREAS Military operations have, since the passing of Act No. 15, 1900, been necessarily carried on in this Colony, and for the carrying out of such operations and for the maintenance of good order and government, His Excellency the

Governor and the Officer for the time being commanding His Majesty's Forces in this Colony, and the Military, Volunteer, and Civil authorities of this Colony, may be responsible in person or purse for acts done by them in good faith in pursuance of such objects as aforesaid, and it is, therefore, expedient to extend a further indemnity upon the same terms as are set forth in the said Act No. 15, 1900, to persons who, in good faith, have acted for the suppression of hostilities and the maintenance of good order and government: Act 41, 1901.

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. All actions, indictments, and legal proceedings, civil, criminal, or mixed, against His Excellency Colonel Sir Henry Edward McCallum, K.C.M.G., Governor of Natal, or the Honourable Sir Walter Francis Hely-Hutchinson, G.C.M.G., lately Governor of Natal, or the Honourable Sir Michael Henry Gallwey, K.C.M.G., lately administering the Government of Natal, or the officer for the time being commanding His Majesty's Forces in Natal, or against any such authorities or officers, Civil, Military, or Volunteer, or other persons acting as aforesaid, for or by reason of any matter or thing commanded, ordered, directed, or done for the suppression of hostilities or the maintenance of good order and government, or for the public safety, whether done before, during, or after the existence of Martial Law, but in furtherance of the objects for which it became necessary to proclaim Martial Law, shall be discharged and become and be made void; and every person by whom such act, matter, or thing shall have been advised, commanded, ordered, directed, or done for the purposes aforesaid, whether before, during, or after the existence of such Martial Law, shall be freed, acquitted, discharged, released and indemnified against all and every person and persons whomsoever in respect thereof.

Indemnification of the Governor and other authorities and persons in respect of certain acts.

2. All officers and other persons who have acted under the authority of His Excellency Colonel Sir Henry Edward McCallum, K.C.M.G., or the Honourable Sir Walter Francis Hely-Hutchinson, G.C.M.G., as Governor of this Colony, or as Supreme Chief of the Native population, or the Honourable Sir Michael Henry Gallwey, K.C.M.G., as Administrator of the Government of Natal, or any officer acting under them, or under the authority of the General Officer Commanding His Majesty's Forces in Natal, or who have acted *bona fide* for the purposes and during the time aforesaid, are hereby indemnified in respect of all acts, matters, and things done in the suppression of hostilities and the maintenance of good order and government

Indemnification of persons who have acted under authority of the Governor, &c.

Act 41, 1901. and the public safety; and such acts so done are hereby made and declared to be lawful and are confirmed.

Sentences of military tribunals.

3. All sentences passed by any Court Martial or by any Court or person exercising judicial functions under the authority of the General Officer Commanding His Majesty's Forces in Natal, or of any officer of His Majesty's Forces purporting to exercise authority in that behalf, since the date of the aforesaid Proclamation of 23rd October, 1899, which sentences have been passed upon persons not ordinarily subject to Military Law in respect of acts, crimes, or offences committed during the existence of Martial Law as aforesaid, are hereby confirmed and approved, and in so far as the same shall not have been already carried into effect, shall be deemed to be sentences passed by duly and legally constituted Courts of this Colony, and shall be and remain in force and shall be carried out in the same manner as the sentences of the Courts of Law of this Colony.

Governor's certificate as to acts done under authority or *bona fide*.

4. His Excellency the Governor at any time, in order to prevent or remove any doubt which might exist or may arise whether any act alleged to have been done under the authority of the Governor or of the Supreme Chief, or under the authority of the General Officer Commanding His Majesty's Forces in Natal, or to have been done *bona fide* for any of the purposes aforesaid, was so done, may by a certificate in writing under his hand declare such acts to have been done, either under such authority or *bona fide* for the purposes aforesaid: and any such certificate under the hand of the Governor for the time being, shall in all cases be conclusive evidence that such acts were so done respectively.

Ratification of trade and customs arrangements made in regard to Orange River Colony.

5. All proclamations, regulations, arrangements, and orders made by His Excellency the Governor, and under his authority, or by or under the authority of the late Governor the Honourable Sir Walter Francis Hely-Hutchinson, G.C.M.G., or of the Honourable Sir Michael Henry Gallwey, K.C.M.G., lately administering the Government of Natal, for authorising and regulating trade between this Colony and the Orange River Colony, and for the collection and payment of Customs Duties and for any other matters relative to Customs upon goods and things exported to or imported from the Orange River Colony, are hereby ratified and confirmed, and the same shall, save so far as they may already have been altered or revoked, be of legal force until they shall be revoked by order of His Excellency the Governor; and His Excellency the Governor and the Colonial Treasurer, and all officers and persons acting under the authority of any such proclamation, regulation, arrangement, or order shall be indemnified and kept harmless in respect of any

payments made or acts done under such authority as aforesaid.

Act 41, 1901.

6. Any order heretofore made by His Excellency the Governor, or under his authority, or by or under the authority of the late Governor, the Honourable Sir Walter Francis Hely-Hutchinson, G.C.M.G., or of the Honourable Sir Michael Henry Gallwey, K.C.M.G., lately administering the Government of Natal, since the date of the before-recited Proclamation of 23rd October, 1899, for suspending the operation of any Act of Parliament, or any part thereof, is hereby confirmed, and shall be of legal force until the same shall be revoked by order of His Excellency the Governor.

Ratification of orders suspending Acts of Parliament.

7. His Excellency the Governor and the Colonial Treasurer of Natal, and all other persons concerned, shall be indemnified and kept harmless in respect of any payments which have been made by the Colonial Treasurer from the Consolidated Revenue Fund for meeting expenses occasioned by the state of war heretofore subsisting, but which have not been authorised by any Act of Supply.

Indemnification for payments from revenue.

Act No. 22, 1902.

“To indemnify the Governor of the Colony, and the Officer Commanding His Majesty’s Forces in Natal, and all persons acting under their authority and in good faith, in regard to acts during the existence of Martial Law.”

[2nd June, 1902.]

WHEREAS the state of war mentioned in Act No. 41, 1901, still continues, and the Proclamation of the 23rd day of October, 1899, placing this Colony under Martial Law, remains in force :

AND WHEREAS Military operations have, since the passing of Act No. 41, 1901, been necessarily carried on in this Colony, and for the carrying out of such operations and for the maintenance of good order and government, His Excellency the Governor and the Officer for the time being Commanding His Majesty’s Forces in this Colony, and the Military, Volunteer, and Civil authorities of this Colony, may be responsible in person or purse for acts done by them in good faith in pursuance of such objects as aforesaid, and it is, therefore, expedient to extend a further indemnity upon the same terms as are set forth in the said Act No. 41, 1901, to persons who, in good faith, have acted for the suppression of hostilities and the maintenance of good order and government (a) :

(a) See Act No. 30, 1902, post.

Act 22, 1902.

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Indemnity of
certain officers

1. All actions, indictments, and legal proceedings, civil, criminal, or mixed, against His Excellency Colonel Sir Henry Edward McCallum, K.C.M.G., Governor of Natal, or the Honourable Sir Henry Bale, K.C.M.G., lately administering the Government of Natal, or the Officer for the time being Commanding His Majesty's Forces in Natal, or against any such authorities or officers, Civil, Military, or Volunteer, or other persons acting as aforesaid, for or by reason of any matter or thing, commanded, ordered, directed, or done for the suppression of hostilities or the maintenance of good order and government, or for the public safety, whether done before, during, or after the existence of Martial Law, but in furtherance of the objects for which it became necessary to proclaim Martial Law, shall be discharged and become and be made void; and every person by whom such act, matter or thing shall have been advised, commanded, ordered, directed, or done for the purposes aforesaid, whether before, during, or after the existence of such Martial Law, shall be freed, acquitted, discharged, released, and indemnified against all and every person and persons whomsoever in respect thereof.

Indemnifica-
tion of persons
who have
acted under
authority of
the Governor,
etc.

2. All officers and other persons who have acted under the authority of His Excellency Colonel Sir Henry Edward McCallum, K.C.M.G., or the Honourable Sir Henry Bale, as Deputy-Governor of the Colony of Natal, or any officer acting under them, or under the authority of the General Officer Commanding His Majesty's Forces in Natal, or who have acted *bona fide* for the purposes and during the time aforesaid, are hereby indemnified in respect of all acts, matters, and things done in the suppression of hostilities and the maintenance of good order and government and the public safety; and such acts so done are hereby made and declared to be lawful and are confirmed.

Sentences of
military
tribunals.

3. All sentences passed by any Court Martial or by any Court or person exercising judicial functions under the authority of the General Officer Commanding His Majesty's Forces in Natal, or of any officer of His Majesty's Forces purporting to exercise authority in that behalf, since the date of the aforesaid Proclamation of 23rd October, 1899, which sentences have been passed upon persons not ordinarily subject to Military Law in respect of acts, crimes, or offences committed during the existence of Martial Law as aforesaid, are hereby confirmed and approved, and in so far as the same shall not have been already

carried into effect, shall be deemed to be sentences passed by Act 22, 1902.
duly and legally constituted Courts of this Colony, and shall be and remain in force and shall be carried out in the same manner as the sentences of the Courts of Law of this Colony.

In so far as may be necessary for giving effect thereto in Natal, this Section shall also apply to all sentences passed since the aforesaid date upon any person who had theretofore been domiciled or resident in Natal, by any Court-Martial or by any Court or person exercising judicial functions under the authority of the General Officer Commanding His Majesty's Forces in any part of Africa south of the River Zambezi, which was or has since become a part of His Majesty's Dominions; and all persons so sentenced for the crime of treason shall be deemed to have been convicted of treason within the meaning of Clause 12 of the Royal Charter of 15th of July, 1856.

The production of a document purporting to be the record of the judgment or sentence of any such Court-Martial, Court, or person as aforesaid, endorsed with the signature of the Officer for the time being Commanding His Majesty's Forces in Natal, shall be sufficient proof for all purposes of any such judgment or sentence.

4. His Excellency the Governor at any time, in order to prevent or remove any doubt which might exist or may arise whether any act alleged to have been done under the authority of the Governor or of the Supreme Chief, or under the authority of the General Officer Commanding His Majesty's Forces in Natal, or to have been done *bona fide* for any of the purposes aforesaid, was so done, may by a certificate in writing under his hand declare such acts to have been done, either under such authority or *bona fide* for the purposes aforesaid: and any such certificate under the hand of the Governor for the time being, shall in all cases be conclusive evidence that such acts were so done respectively.

Governor's certificate as to acts done under authority or *bona fide*

5. All proclamations, regulations, arrangements, and orders made by His Excellency the Governor, and under his authority, for authorising and regulating trade between this Colony and the Orange River Colony, and for the collection and payment of Customs Duties and for any other matters relative to Customs upon goods and things exported to or imported from the Orange River Colony, are hereby ratified and confirmed, and the same shall, save so far as they may already have been altered or revoked, be of legal force until they shall be revoked by order of His Excellency the Governor; and His Excellency the Governor and the Colonial Treasurer, and all officers and persons acting under the authority of any such proclamation, regulation,

Ratification of trade and customs arrangements made in regard to Orange River Colony.

Act 22, 1902. arrangement, or order, shall be indemnified and kept harmless in respect of any payments made or acts done under such authority as aforesaid.

Indemnity in respect of certain payments made by Colonial Treasurer.

6. His Excellency the Governor and the Colonial Treasurer of Natal, and all other persons concerned, shall be indemnified and kept harmless in respect of any payments which have been made by the Colonial Treasurer from the Consolidated Revenue Fund for meeting expenses occasioned by the state of war heretofore subsisting, but which have not been authorised by any Act of Supply.

Act No. 30, 1902.

“To extend the operation of Act No, 22, 1902, entitled ‘Act to indemnify the Governor of the Colony, and the Officer Commanding His Majesty’s Forces in Natal, and all persons acting under their authority and in good faith, in regard to acts during the existence of Martial Law.’”

[5th December, 1902.]

WHEREAS Act No. 22, 1902, was promulgated on the 10th day of June, 1902 :

AND WHEREAS the state of war therein referred to ceased on the 31st day of May, 1902 :

AND WHEREAS, by Proclamation of His Excellency the Governor, published on the 4th day of October, 1902, the former Proclamations placing the Colony under Martial Law were revoked, save as to certain persons and things therein specially referred to :

AND WHEREAS it is expedient to extend the operation of Act No. 22, 1902, in order that the same may apply to acts and things done subsequently to the said 10th day of June, 1902, and prior to the commencement of this Act, in the like circumstances and for the same purposes as those acts and things to which the said Act No. 22, 1902, now applies :

BE IT THEREFORE ENACTED by the King’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. The operation of Act No. 22, 1902, entitled “Act to indemnify the Governor of the Colony, and the Officer Commanding His Majesty’s Forces in Natal, and all persons acting under their authority and in good faith, in regard to acts during the existence of Martial Law,” shall be extended so that it shall in all respects and for all purposes have the same effect as if it

had been promulgated on the date of the promulgation of this Act 30, 1902. Act.

2. This Act shall not affect the past operation of the said Act No. 22, 1902.

Act No. 26, 1903.

“ To give effect to the fourth clause of the Articles of Surrender, signed at Pretoria on the thirty-first day of May, 1902, and to extend the operation thereof in this Colony.”

[13th September, 1903.]

WHEREAS in the fourth clause of the Articles of Surrender, signed at Pretoria on the thirty-first day of May, 1902, it is provided that no proceedings, civil or criminal, for any acts in connection with the prosecution of the war will be taken against any of the Burghers surrendering under the said Articles or against prisoners of war at the date of the signing of the said Articles, outside South Africa, returning to the Transvaal after duly declaring their acceptance of the position of subjects of His Majesty King Edward the Seventh :

AND WHEREAS it is desirable to give legal effect to the aforesaid clause and to extend the operation thereof in this Colony to all persons in like manner as to Burghers :

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. The fourth clause in the Articles of Surrender, signed at Pretoria on the thirty-first day of May, 1902, which is as follows :—

“ No proceedings civil (a) or criminal will be taken against any of the Burghers so surrendering or so returning for any acts in connection with the prosecution of the war. The benefit of this clause will not extend to certain acts contrary to the usage of war, which have been notified by the Commander-in-Chief to the Boer Generals, and which shall be tried by Court-Martial immediately after the close of hostilities,”

Fourth clause of Articles of Surrender to be of legal force and effect.

(a) Where plaintiff's horse had been taken by the enemy during hostilities, for war purposes, by lawful authority, he was held not entitled to recover, being barred by the provisions of this

sec. (*Cebekulu v. Van der Merwe*, 25 N.L.R., 66). See also *V. Tonder v. Pieters* (24 N.L.R., 455) and *Zoxwana v. Hattingh* (24 N.L.R. 67).

Act 26, 1903.

shall be of full force as law within this Colony from the date of the signing of the Articles of Surrender, to wit the thirty-first day of May, 1902, and it shall be a defence to any civil or criminal proceedings taken against any person being one of the persons referred to in the said clause, that the act in respect of which such proceedings are taken was an act in connection with the prosecution of the late war between His Majesty and the late Governments of the South African Republic and Orange Free State.

Further
application.

2. The provisions of the foregoing section shall apply to all persons whomsoever in like manner in all respects as to the persons referred to as Burghers surrendering or returning.

3. This Act may be cited as the "Indemnity Act 1903."

Act No. 51, 1906.

"To indemnify the Governor of the Colony, the Executive Council, the Commandant of Militia, the military and civil authorities of the Colony, and all persons acting under their authority or in good faith in regard to acts during the existence of Martial Law."

[1st October, 1906.]

WHEREAS serious disturbances, accompanied by Rebellion, have recently arisen and still continue amongst certain parts of the Native population of this Colony :

AND WHEREAS in order to deal with, and suppress such disturbances, and rebellion and for the preservation of order and the protection of His Majesty's Subjects in this Colony it became necessary to place the Colony under Martial Law, and His Excellency the Governor on the advice of his Executive Council did accordingly on the ninth day of February, 1906, proclaim and make known that the Colony was placed under Martial Law :

AND WHEREAS military operations have in consequence of the aforesaid disturbances and rebellion been necessarily carried on in this Colony and are still proceeding :

AND WHEREAS certain acts have been done and may still require to be done during the continuance of Martial Law :

AND WHEREAS it was deemed proper and necessary in order to adequately and expeditiously deal with the said disturbances and rebellion that certain offenders against law and good order should be tried by Courts Martial, as well as by persons administering Martial Law, and certain offenders have been so tried and

sentenced in certain cases to be shot and in others to various terms of imprisonment with hard labour with or without lashes and to fines, which said sentences have in certain cases been carried out and in others are still running :

Act 51, 1906.

AND WHEREAS fines and other punishments have in some cases been inflicted by Military Officers in the field and subsequently approved of by Government :

AND WHEREAS for the above acts referred to and generally for all and any act during the continuance of Martial Law His Excellency the Governor, the Commandant of Militia, the Military and Civil authorities of this Colony and other persons taking part therein may be responsible in person and in purse and it is expedient that they should be indemnified and kept harmless and that all the above acts should be declared to have been and to be lawful :

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. The action of His Excellency Colonel Sir Henry Edward McCallum, G.C.M.G., Governor of Natal, in proclaiming Martial Law on the ninth day of February, 1906, in terms of Proclamation No. 19, 1906, is hereby made and declared to be a lawful act and is approved and confirmed.

Proclamation
of martial law
approved and
confirmed.

All subsequent acts whatsoever of His Excellency having reference in any way directly or indirectly to the said disturbances and rebellion during the continuance of Martial Law and more especially in reference to the following matters and things, namely :—

Other acts
approved and
confirmed.

- (a) The maintenance of Martial Law ;
- (b) The deputation or granting of authority to administer Martial Law ;
- (c) The holding of Courts-Martial and of Courts of Administrators of Martial Law, and the trial of persons therein ;
- (d) The confirmation of all sentences passed by the said Courts and Administrators of Martial Law ;
- (e) The infliction of fines and other punishments by Military Officers in the field ;
- (f) All orders made by him as Supreme Chief over the Native population ;
- (g) The commanding, ordering or directing of any act, matter or thing for the suppression of the said disturbances and rebellion and for the maintenance of good order and government ;

Act 51, 1906.

are hereby made and declared to be lawful acts and are approved and confirmed.

And it is also hereby enacted that His Excellency is hereby indemnified in respect of the said action and acts above referred to, the same being hereby declared to have been done in good faith and to have been proper and necessary for the preservation of peace, for the suppression of such disturbances and rebellion and for the due punishment of offenders.

Acts of
Ministers, and
of the Com-
mandant of
Militia con-
firmed.

2. All acts, commands, orders, or directions whatsoever of the Ministers acting as members of the Executive Council or otherwise and of the Commandant of Militia, having reference in any way directly or indirectly to the said disturbances and rebellion before or during the continuance of Martial Law, are hereby made and declared to be lawful acts and are approved and confirmed.

And they and he are hereby also indemnified in respect of all such acts, matters, and things aforesaid the same being hereby declared to have been done in good faith and to have been proper and necessary for the preservation of peace, for the suppression of such disturbances and rebellion and for the due punishment of offenders.

Acts of
military or
Civil authori-
ties confirmed.

3. All acts whatsoever of the Military or Civil authorities or officers having reference in any way directly or indirectly to the said disturbances and rebellion and more especially those in connection with trials of offenders, sentences and the carrying out of same, the imposition of fines, the collection thereof, and all punishments inflicted are likewise made and declared to be lawful acts done in good faith and are approved and confirmed, and such authorities and officers are hereby indemnified in respect of the same.

All acts done
in good faith
declared to be
lawful.

4. All acts whatsoever of any person whomsoever having reference in any way directly or indirectly to the said disturbances and rebellion done under authority of any of the Military or Civil authorities or officers or in good faith are also made and declared to be lawful acts and are approved and confirmed and such persons are hereby indemnified in respect of the same.

Actions and
proceedings to
be dismissed.

5. All actions, indictments and legal proceedings, civil, criminal or mixed, present as well as future, against His Excellency Colonel Sir Henry Edward McCullum, G.C.M.G., Governor of Natal, or the Ministers as aforesaid or the Commandant of Militia, or against any of the authorities or officers, Military or Civil, of this Colony, or other persons acting under such authority or in good faith as aforesaid, for or by reason of any act, matter or thing hereinbefore referred to, shall

be discharged and become and be made void; and every person by whom such act, matter or thing shall have been advised, commanded, ordered, directed, or done as aforesaid, shall be freed, acquitted, discharged, released and indemnified against all and every person or persons whomsoever in respect thereof: Provided however that nothing in this Act shall prevent all Military and Civil officers and persons from being held responsible for their acts to their superior officers, or being tried by Courts Martial or dealt with otherwise as the Governor may determine.

Act 51, 1906.

6. All sentences passed by any Courts Martial or by any court or person administering Martial Law under the authority of the Governor or of the Commandant of Militia in Natal, or by any military officer purporting to exercise authority in that behalf, since the date of the aforesaid proclamation of 9th February, 1906, including fines and other punishments inflicted by military officers in the field, are hereby confirmed and made and declared to be lawful, and in so far as the same shall not have been already carried into effect, shall be deemed to be final sentences passed by duly and legally constituted Courts of this Colony, and no appeal shall lie in respect of same, but they shall be and remain in force and shall be carried out in the same manner as the sentences of the Courts of Law in this Colony: Provided always that it shall be competent for the Governor with the advice of his Executive Council, whenever he shall think fit so to do, to remit either in whole or in part the unexpired period of such sentences. The certificate in writing of the Governor that any sentence, fine, or punishment comes within the provisions hereof shall be conclusive evidence as to the facts therein stated.

Sentences, fines, and punishments confirmed.

7. No action shall be competent against the Colonial Government or any officer thereof for the recovery of any loss or damage in connection with any contract for supplies or service to the Government, or any departments thereof, such loss or damage arising out of or being occasioned by the action of the Commandant of Militia or of any officers acting under him in making other contracts or purchases for the supply or service of troops in the field or in connection with any military measures.

Incompetency of actions for loss, &c., in connection with supplies.

8. His Excellency the Governor and the Treasurer of Natal, and all other persons concerned, shall be indemnified and kept harmless in respect of any payments which have been or may be made by the Treasurer from the Consolidated Revenue Fund for meeting the expenses occasioned by the aforesaid disturbances

Indemnity in respect of payments from Consol. Revenue Fund

Act 51, 1906. and rebellion, but which have not been authorised by any Act of Supply.

Authorisation of extraordinary measures for extinction of rebellion.

9. It shall be lawful for the Governor from time to time during the continuance of the aforesaid disturbances and rebellion, whether the ordinary Courts of Justice shall or shall not at such time be open, to issue his orders to all officers commanding the Militia or other forces in Natal and to all others whom he may see fit to authorise in that behalf to take the most effectual and vigorous measures for suppressing the said disturbances and rebellion as shall appear necessary for the public safety and to punish according to Martial Law either by death or otherwise as shall seem expedient all such persons as may have committed or may hereafter commit any act of treason, public violence, sedition, murder, or any act in furtherance of the said disturbances and rebellion, or as may have been, or be acting, or in any way aiding or abetting in the said disturbances and rebellion, and to detain in custody all persons engaged in such disturbances and rebellion, crimes, or acts, or suspected thereof, and to cause all such persons to be brought to trial by Courts Martial or by other persons whom the Governor or any person empowered by him may appoint for that purpose, and to execute the sentences of such Courts Martial or persons, and to do all the acts necessary for such several purposes, but no sentence of death shall be passed under Martial Law, except by a Court Martial consisting of at least five members, and no such sentence of death shall be carried out unless the Governor shall have confirmed the same: Provided that nothing in this section shall be deemed to take away or reduce the powers competent under Martial Law, except as herein specially provided.

Responsibility of persons acting under orders.

All Military and Civil authorities or officers and persons who shall act under any such orders as aforesaid shall be responsible for all such acts only to their superior officers or to such person as the Governor may authorise for the purpose, or to Courts Martial, and the Civil Courts of Law of this Colony shall not take cognizance of any act, matter, or thing which shall be done by the Governor in pursuance of the powers granted by this section or by any person acting as aforesaid, and if any proceeding shall be had in any Civil Court by indictment or otherwise, all such proceedings shall be stayed by summary order on application to the Court supported by a certificate in writing, under the hand of the Governor, as provided for in Section 10 of this Act: And it is hereby further enacted that in so far as may be necessary the Governor is and shall be held harmless and indemnified in respect of all such orders and acts as are hereby specially authorised and also in respect of all such other orders and acts

as may be issued or done by him under Martial Law for any of the purposes aforesaid or in reference thereto. **Act 51, 1906.**

10. The Governor at any time in order to prevent or remove any doubt which might exist or may arise whether any act complained of is one to which the provisions of this Act apply, may by a certificate in writing under his hand declare that such act has reference directly or indirectly to the said disturbances and rebellion, that it was an act of the Military or Civil authorities or officers, or done by some person under their authority or in good faith, or that such act is within the provisions of Section 9 of this Act, and any such certificate shall in all cases be conclusive evidence as to the matter therein set forth and shall be accepted as such in all Courts of Law, and the production thereof in any Court of Law shall be a complete defence and answer to all and any actions, indictments and legal proceedings civil, criminal or mixed present as well as future in reference to any such act.

Governor may certify whether any act complained of comes within the provisions of this statute.

11. The word "Governor" as used in this Act includes the officer for the time being administering the Government of Natal, the word "Ministers" means the persons styled Ministers in the Constitution Act of 1893, and the words "Commandant of Militia" include any persons appointed to exercise all or any of the powers of the Commandant of Militia.

Meaning of "Governor," "Ministers," and "Commandant of Militia."

12. This Act may be cited as the "Indemnity Act, 1906."

Short title.

INDIAN IMMIGRATION TRUST BOARD.

[See "IMMIGRATION (INDIAN)."]

INDIANS.

[See "CONTRACTS"; "IMMIGRATION (INDIAN)"; "INTOXICATING LIQUORS."]

INFECTIOUS DISEASES.

[See "PUBLIC HEALTH."]

INSURANCE.

[See "ASSURANCE AND INSURANCE COMPANIES."]

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“To amend the Law relating to Liquor.”

[19th August, 1901.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

By-laws of boroughs and townships may fix closing hour at 10 p.m.

1. The Town Council of any Municipal Borough or the Local Board of any Township constituted under Law No. 11, 1881, or any like Law or Act, may at any time in the manner provided by law make by-laws fixing the hour of ten at night as the closing time for premises upon which liquor is sold or supplied by retail, and so long as any such by-laws shall be in force Section 6 of Act No. 36, 1899, shall in respect of such borough or township be considered as if the words “ten o'clock” were substituted therein for the words “eleven o'clock.”

Prohibition of license after three convictions within seven years.

2. No license shall be renewed nor shall a new license be granted upon the application of any person or of the wife or husband of any person who has during the previous seven years been three times convicted of contraventions of the Liquor Act of 1896, or of any Act amending the same: Provided that if it shall appear to the Board that any such contravention was committed without any connivance or approval by the applicant, the conviction for such contravention shall not be reckoned for the purposes of this section (a).

License not to be transferred while charge is pending.

3. No license shall be transferred whilst any charge under any of the said Acts is pending in respect of any offence committed within the previous thirty days by the license holder or by anyone employed in his business.

(a) See *Cooper v. Ladysmith Licensing Board* (24 N.L.R., 30).

4. Section 78 of the Liquor Act, 1896, is hereby repealed, and the following section is enacted in lieu thereof:—

Act 32, 1901.
Isityimiyana.

Any person making, selling, using, or being in possession of the drink or liquor made from fermented treacle or sugar, and called "Isityimiyana," shall be deemed to have committed an offence.

5. Sections 23 and 24 of Act No. 38, 1896, are hereby repealed, and the following section is substituted therefor:—

Club licenses.

A club license is required where liquors are supplied to members and to honorary members and guests admitted under the club rules.

Applications for new club licenses shall be made, heard, and determined in the same way as applications for bar licenses in a borough or township, or country hotel license, as the case may be.

No such application shall be made until the rules of the proposed club shall have been approved by the Governor upon the recommendation, in the case of a Borough or Township, of the Mayor or Chairman of the Local Board, as the case may be.

6. Whenever in any complaint or charge for an offence under this Act, or any Act construed therewith, any person is charged as being an Indian or Native, then unless the contrary be shown, such person shall be deemed and be taken by the Court to be an Indian or Native as the case may be.

Person charged as an Indian or Native to be deemed such unless contrary be shown.

Act No. 27, 1905.

"To amend the Liquor Laws in reference to the drink called Isityimiyana."

[12th August, 1905.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal as follows:—

1. The words "intoxicating liquor" and "liquor," as used in the Liquor Act, 1896, shall include isityimiyana, whether made from treacle, sugar, or other ingredients.

Isityimiyana to be deemed liquor.

2. It shall be lawful for any inspector or superintendent of police, or for any police constable having the special written authority hereinafter mentioned, at any time to enter into and upon any premises, huts, or dwellings in which there is reasonable suspicion that isityimiyana is made, used, kept, or sold, and then to search such premises.

Search of premises and seizure of isityimiyana.

Act 27, 1905.

Any isityimiya found in the course of such search may be seized and removed and shall be forfeited.

The special written authority above referred to may be granted by a magisrate, justice of the peace, inspector or superintendent of police, or any police officer or constable in charge of any police station other than at the seat of a magistracy.

Municipal by-laws.

The town council of any borough and the local board of any township under Law No. 11, 1881, shall have power to make by-laws similar to the provisions of this Act, applicable to such boroughs and townships.

Award to informer.

3. The court before which any offence relating to isityimiya shall be prosecuted may direct that any portion not exceeding one-half of any penalty imposed and recovered shall be paid or awarded to any police constable or other person who may have given such information as shall have led to the conviction of the offender.

Repeals.

4. The proviso to Section 4 of Act No. 36, 1899, and Section 294 of the Schedule of Law No. 19, 1891, are hereby repealed.

Offences relating to isityimiya.

5. Every person who shall join with others in drinking isityimiya, or who in any way participates in any gathering for that purpose, or who is a party to the making, using, selling, or having isityimiya, shall be guilty of an offence punishable as provided in Section 85 of the Liquor Act, 1896.

Act No. 44, 1906.

“To amend the Liquor Act of 1896 in regard to the punishments for supplying liquor to Natives and Indians.”

[5th September, 1906.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Partial repeal of sec. 68 of Liquor Act, 1896.

Section 68 of the Liquor Act of 1896 is hereby repealed, except in so far as it applies to the sale, barter, or supply of Kaffir beer known as utywala, and the following is enacted in lieu thereof:

Re-enactment.

Any person who shall sell, barter or supply any intoxicating liquor to a Native or Indian in contravention of any of the Acts relative to the sale or supply of intoxicating liquor, shall upon conviction before a magistrate be subject to the following punishments:

- (a) For a first offence, a fine of not less than Ten Pounds (£10) and not exceeding Fifty Pounds (£50), or in

default of payment, imprisonment with or without **Act 44, 1906** hard labour for a term of not less than three months and not exceeding six months.

If he be the holder of any license for the sale of wines, spirits or other intoxicating liquor, then in addition to such sentence as aforesaid the magistrate shall adjudge such license to be suspended for a period of not less than one month and not exceeding three months. If such term of suspension exceeds the then unexpired term of the license, he shall be debarred from obtaining any new or renewed license until the expiration of the term of such suspension.

- (b) For a second offence, a fine of not less than Fifty Pounds (£50) and not exceeding One Hundred Pounds (£100), and in default of payment, imprisonment with or without hard labour for a term of not less than six months and not exceeding one year.
- (c) In the case of a third or subsequent offence a fixed fine of One Hundred Pounds, and in default of payment, imprisonment with or without hard labour for the fixed term of two years.
- (d) In the case of a second or subsequent conviction the magistrate may in his discretion, if it appears to him that a fine would not be an adequate punishment, impose such imprisonment as is provided for in sub-sections (b) and (c) without the option of a fine.
- (e) In the case of a second or subsequent conviction of a person who is a holder of a license for the sale of wines, spirits or other intoxicating liquor, the magistrate shall adjudge such license to be cancelled, and such order shall for a period of one year bar any application by the person so convicted for any license under the Acts relating to the sale or supply of intoxicating liquors.

Provided that in all cases, if notice be forthwith given of appeal against the decision of the Magistrate to the Supreme Court accompanied by a deposit in the court of Twenty Pounds (£20) as an earnest of good faith, the judgment of suspension or cancellation of a license shall be in abeyance for a period of six weeks or such further period as the Supreme Court may order.

Provided also that the holder of a license shall not be liable to imprisonment with or without hard labour otherwise than as an alternative to a fine, unless he has personally committed the offence.

JUDGES.

[See "COURTS (NATIVE)"; "COURTS (SUPREME)."]

Act No. 25, 1904.

"To increase the salaries of the Chief Justice and other Judges of the Supreme Court."

[3rd August, 1904.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

Repeal.

1. Act No. 5, 1901, is hereby repealed.

Salaries.

2. The Chief Justice and the Puisne Judges (*a*) of the Supreme Court shall be paid out of the revenues of the Colony the yearly salaries assigned to their respective offices in the Schedule hereunto annexed.

Commence-
ment.

3. This Act shall come into force as from and after the first day of July, 1904.

SCHEDULE OF YEARLY SALARIES.

Chief Justice	£2,000
First Puisne Judge	£1,750
Second Puisne Judge... ..	£1,750
Third Puisne Judge	£1,750

(*a*) Three in number; see Act No. 38, 1904, s. 2, tit. "COURTS (SUPREME)."

JURIES.

Act No. 39, 1904.

“To amend Law No. 8 of 1878.”

[13th August, 1904.]

WHEREAS it is expedient to amend Law No. 8 of 1878 entitled Law “To provide for the amendment of the Jury Laws, and the Constitution and Formation of Special Juries in certain cases.”

BE IT THEREFORE ENACTED by the King’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. The words “not exceeding fifty,” occurring in Sections 1 and 2 of Law No. 8 of 1878, shall be expunged, and the words “not exceeding One Hundred ” shall be inserted in lieu thereof. Amendment of Law 8, 1878.

JUSTICES OF THE PEACE.

[See “OATHS.”]

JUVENILE OFFENDERS.

[See “DESTITUTE PERSONS.”]

LABOUR TOUTS.

Touts Act, 1901.

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Act No. 46, 1901.

To repeal, and re-enact with amendments, the "Labour Tout Regulation Act, 1896."

[9th September, 1901.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Short Title.

1. This Act may be cited as the "Touts Act, 1901."

Repeal.

2. Act No. 36, 1896, entitled the "Labour Tout Regulation Act, 1896," is hereby repealed, but such repeal shall be without prejudice to anything done, or any right acquired or liability incurred thereunder, save as is otherwise provided in the next succeeding section.

Existing Licenses.

3. Every license issued under the said repealed Act which may be current at the date of the taking effect of this Act shall be deemed to be a license issued under this Act, and the holder of such license shall be required to conform to the terms of this Act.

4. For the purposes of this Act the expression "tout" shall mean any person who shall, by himself or by any persons employed by him, and whether in his own name or otherwise, procure, or attempt to procure, seek for, or engage Natives in this Colony for service to be rendered to another person, or shall supply, or contract to supply, Natives to be employed in work of any kind.

Act 46, 1901.

Definition
"tout."

Services shall be deemed to be rendered to another person if the Natives are employed in or about the business of another person, whether or no any agreement may have been made under which the Natives are paid by the person who procured them, or are regarded as being his servants, and notwithstanding any other agreement which may be made with a view to avoiding the effect of this section.

" Services rendered to another person."

5. Any person employed to procure, seek for, or engage Natives shall also be deemed to be a tout. Nevertheless, if any person charged with touting without a license shall satisfy the Court that he was merely incidentally employed to engage servants for domestic, farm, or other personal service for his employer, and shall also satisfy the Court that he was not in any way making a business of procuring Natives, or acting for or in the business of a tout, he shall be acquitted.

Employés in touting business also deemed touts

6. No person shall be allowed to tout for or engage Natives for any services to be performed outside this Colony (a).

Prohibition of touting for service outside Colony.

This section shall not apply to persons taking out of the Colony Natives in actual service at the time, the onus of proof whereof shall be with the master.

7. Every tout shall take out an annual license from the Magistrate of the Division in which he intends to procure, engage, or seek for labourers and servants, and such license shall not have any effect or validity outside the Magisterial Division in which it is granted.

Annual license

8. Such licenses shall be issued only to persons approved by the Magistrate, who may refuse to issue any license.

Discretion in issue of license

9. Any person who is refused a license may appeal to the Secretary for Native Affairs, who may direct the Magistrate to

Appeal against refusal.

(a) In *Rex v. Lloyd* (25 N.L.R., 59) a defendant pleaded guilty to a contravention of this sec. The magistrate recorded a judgment of guilty, but discharged defendant on the ground that the Act does not provide any penalty for a breach

of the sec., and he did not think that the general jurisdiction conferred upon him by the Magistrates' Court Act, 1896, could be resorted to. On appeal this view was held to be wrong and the case was remitted to the Magistrate.

Act 46, 1901. issue a license or uphold (a) the refusal to grant the license, without being required to give any reasons for his decision (b).

License fee. 10. The charge for every such license shall be Five Pounds Sterling for each year, or portion of a year, ending on the 31st day of December.

License not transferable. 11. No such license shall be transferable.

Contract by tout to cease on entry of Natives into service. 12. Every contract made with Natives by a tout, or by any person following the calling of a labour agent or the like, for services to be rendered to another person, shall cease and determine as between the Native and the tout or labour agent as soon as the Native shall enter into the service for which he was engaged, and no such agreement shall be capable of being directly or indirectly renewed as between the tout and any such Native whilst such Native is in the employment of any other person.

Registration of contracts. 13. Every employer, to whom any Natives are supplied by a tout, shall, before the Natives enter into his service, take them before the Magistrate or a Justice of the Peace of the Division (appointed for that purpose) in which the service is to be rendered; and such Magistrate or Justice of the Peace shall register the contract of each Native with the requisite particulars in a book to be kept by him in the form of the Schedule of this Act, and shall hand the certificate of registration to the employer.

Penalty for not registering Registration books shall be supplied by the Government to Magistrates and Justices of the Peace.

Any employer failing to comply with this section shall be liable to a fine not exceeding Five Pounds Sterling for each Native whose contract is not registered as prescribed.

Wages of Natives procured by a tout 14. The wages of every Native procured by a tout or other agent shall be paid in full by the employer (c) to the Native at the rate agreed with the native and no deduction therefrom shall be made on account of any debt by the Native to the tout or agent,

(a) Whether the verb "uphold" is here used in the infinite or subjunctive mood—that is to say, whether it is governed by "to" or "may"—seems open to argument.

(b) As to whether the jurisdiction of the Supreme Court is entirely ousted by this sec., see and compare secs. 5 and 6 of Act No. 18, 1897, and notes thereto, under tit. "DEALERS (WHOLESALE AND RETAIL)," Vol. 1.

(c) Where a firm contracted with a

tout for the supply to them of native labour, and paid the wages of the plaintiff (one of the labourers) to the tout, who withheld them from plaintiff, Dove-Wilson, J., held that plaintiff was entitled to recover from the firm as being his "employer" within the meaning of this sec. Held, also, that the native was entitled to a month's wages and board in lieu of notice. (*Williams & Thomson v. Magida*, 3 N.L.J., 13).

or any fee or other payment by the employer of the tout or agent. **Act 46, 1901.**

15. Whoever shall procure or attempt to procure, ply, or seek for natives, or otherwise act as a tout within the meaning of this Act, without being provided with a license, shall, on conviction thereof before a Magistrate, be liable, for every such offence, to pay a fine not exceeding Twenty-five Pounds Sterling, or, in default of payment, to be imprisoned with or without hard labour, for any term not exceeding six months. **Unlicensed touting.**

16. No tout or labour agent shall enter upon any private land, or upon any Crown land, or Native Location, without having first obtained the consent of the resident owner, or in the case of a non-resident owner, the consent of his agent, if (a) any of the private land, or, in the case of Crown Lands and Locations, the consent of the Magistrate. **Permission required before entry on any land for touting.**

Any person contravening this section shall be liable to a fine not exceeding Twenty Pounds Sterling, or imprisonment, with or without hard labour, for any term not exceeding three months. **Penalty for contravention.**

17. Whoever shall (whether licensed as a tout or not) directly or indirectly, either by himself or by an agent, by the offer of higher wages or greater benefits, or by any other means, cause, induce, or persuade, or attempt to cause, induce, or persuade, or aid or assist in causing, inducing, or persuading, any servant, by words or by any other means, to leave his service, or to violate any agreement of service, whether in writing or not in writing, whether such service is actually being performed, or has to be performed at any future time, shall, on conviction thereof before any Magistrate, be liable to pay a fine not exceeding Twenty-five Pounds Sterling, or, in default of payment, to be imprisoned, with or without hard labour, for any term not exceeding six months, and, if holding a license under this Act, he shall also be liable to forfeiture of such license (b). **Enticing servants from their employment. Penalty.**

In the case of a contravention of this section by any person acting in the employ of a tout (whether licensed or unlicensed), such tout shall also be deemed guilty of such contravention, and all persons so liable may be prosecuted either together or separately.

It shall not be a defence to any charge under this section that the accused person did not know that the servant or apprentice was in employment, or agreement of service.

(a) This is possibly a misprint for "of." Cf. sec. 14 of Act No. 8, 1906, tit. "GAME." On the other hand, the section could be better understood if a comma followed the word "any." (b) Cf. Ord. 2, 1850, c.v. Sec. 2, tit. "MASTER & SERVANT," Vol. 2.

Act 46, 1901.

Harbouring
deserting
servants or
apprentices.

18. Every person who shall conceal, employ, or retain, or counsel, aid, or abet in concealing employing, or retaining, any servant or apprentice who shall have deserted from the service of any master, or otherwise absconded or absented himself from such service shall, on conviction thereof before any Magistrate, be liable to pay a fine not exceeding Twenty-five Pounds Sterling, or in default of payment to be imprisoned, with or without hard labour, for any term not exceeding six months, and if licensed under this Act, to forfeiture of such license (a).

Penalty for
not exhibiting
license.

19. If any licensed tout shall, on demand at any time by any Magistrate, Justice of the Peace, constable, or officer of the law, refuse to produce or to show his license, he shall, on conviction thereof before a Magistrate, be liable to pay a fine not exceeding Five Pounds Sterling, or in default thereof to be imprisoned for any term not exceeding three months.

Act not to be
in bar of
other remedies

20. This Act shall not exempt any person from any action, suit, or other proceeding which might, but for the provisions of this Act, be brought against him.

Exemption of
persons in
service of
Crown.

21. Nothing in this Act shall apply to any person who, as regards any of the matters referred to in this Act, is engaged solely by and in the immediate service of His Majesty's Imperial or Colonial Government.

SCHEDULE (b).

Registration Certificate. Touts Act, 1901. Date Employer Place of Service Servant's Name Chief Division in which resident Period of Contract Rate of Wages Magistrate or Justice of the Peace by whom this Book is kept.....	Registration Certificate. Touts Act, 1901. Date Employer Place of Service Servant's Name Chief Division in which resident Period of Contract Rate of Wages (Signature of Magistrate or Justice of the Peace). Division of
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(a) This sec. substantially reproduces sec. 10 of Act No. 36, 1896, under which it was held that guilty knowledge must

be proved in order to support a conviction (*Reg. v. McKenzie* 18 N.L.R., 10).

(b) See sec. 13 ante.

LADYSMITH CORPORATION.

Act No. 20, 1903.

“To increase the Borrowing Powers of the Town Council of the Borough of Ladysmith.”

[7th September, 1903.]

WHEREAS the Town Council of the Borough of Ladysmith has resolved to provide a system for lighting the said Borough by Electricity, for which a sum of not more than Thirteen Thousand Pounds Sterling (£13,000) is required :

AND WHEREAS, under the Municipal Corporation Lighting Law, 1891, the said Town Council has power to make, do, execute and perform all the works or any of them by the said Law authorised :

AND WHEREAS it is expedient to increase the Borrowing Powers of the Borough of Ladysmith to enable the Town Council thereof to carry out the proposed system for lighting the said Borough by Electricity :

AND WHEREAS, under the provisions of Section 76 of Law No. 19, of 1872 (The Municipal Corporations Law, 1872), the said Town Council has obtained the consent of the Governor, in writing, to the raising by Debentures of a sum of Ten Thousand Pounds Sterling (£10,000), on the security of the rates or revenues belonging to the Corporation, for the purpose of carrying out a system of Electric Lighting in the Borough as aforesaid :

AND WHEREAS the said Loan authorised by the said consent of the Governor has been negotiated :

AND WHEREAS it is expedient that the said Loan should be confirmed by a Law duly promulgated, and that the terms and conditions thereof should be embodied therein :

NOW, THEREFORE, BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows —

1. The Town Council of the Borough of Ladysmith is authorised to borrow up to, but not exceeding, the sum of Thirteen Thousand Pounds Sterling (£13,000), to be used for the purpose of lighting the said Borough with Electricity as authorised by the hereinbefore recited Municipal Corporations Lighting Law, 1891.

Loan of £13,000 authorised.

Act 20, 1903.

Application of moneys.

2. The moneys borrowed under the provisions of this Act shall be applied to the object mentioned in the last preceding section, and no other object.

Loan and interest to be a charge on rates, &c.

3. The sums authorised to be borrowed under this Act, and the interest payable thereon, shall be a charge upon the rates and rents and revenues of the Borough.

Remedy for default in payment of interest.

4. In case the interest payable on any moneys borrowed under this Act shall be in arrear and unpaid for thirty days after the time appointed for the payment thereof, and after demand made, it shall be lawful for the Supreme Court of the Colony of Natal, as often as such default shall occur, at the instance of any person whose interest shall be in arrear, to cause a special rate to be levied upon the real or immovable property situate within the Borough, which is now or may hereafter be liable to be rated for municipal purposes under Law No. 19 of 1872, to the intent that all arrear interest may be paid out of the proceeds of such special rate.

Repayment.

5. The moneys borrowed under this Act shall be repayable within ten years from the date of borrowing.

Remedy for default in repayment.

6. In case any moneys borrowed under this Act shall not be repaid upon demand at or after the date fixed for the payment thereof, it shall be lawful for the Supreme Court, as often as such default shall occur, and at the instance of any person whose claim shall be unsatisfied, to cause a sale or sales to be made of so much of the Town Lands of the Borough as may be necessary for the purpose of raising and paying the moneys due and payable in terms of this Act, and in case the moneys received by such Land Sales shall be insufficient to pay and satisfy all moneys due and payable, then the deficiency shall be made good by a special rate, or special rates, to be levied in the manner hereinbefore provided with respect to the payment of arrear interest.

Stock.

7. The moneys hereby authorised to be borrowed shall be raised upon Stock to be called "The Ladysmith Corporation Stock," hereinafter referred to by the word "Stock."

Manner of issue.

8. Such Stock shall be issued by crediting the purchaser thereof for such sum thereof as he shall purchase, in a set of books to be kept for that purpose by the Town Clerk of the Ladysmith Corporation in the Borough of Ladysmith.

Rate of interest.

9. Such Stock shall bear interest at a rate not exceeding six per centum per annum, payable out of the rents, rates, and general revenue of the Borough, or out of the proceeds of the sales of land, on the Thirtieth day of June and the Thirty-first day of December, or as soon thereafter as demand shall be made therefor by the lawful holder of such Stock, to said lawful holder

or his duly authorised agent, and such payment shall be made by the said Town Clerk. **Act 20, 1903.**

10. Such Stock shall be transferable by transfer in the books in which the same shall be entered, and every person to whom every such credit as aforesaid shall have been given in the said books in the first instance, or to whom any such transfer shall thereafter have been made in said books, shall be entitled to require and demand of the said Town Clerk, and the said Town Clerk shall in each case issue, a receipt or certificate stating the amount of such Stock outstanding to the credit of the said person in the said books. **Transfer of stock.**

11. Such Stock shall be disposed of for the best terms which can be obtained (not below a reserved price to be from time to time fixed by resolution of the Town Council). **Disposal of stock.**

12. The Mayor and Councillors may by resolution from time to time give to the Town Clerk such instructions as to them may seem fit, providing for all or any of the following things:— **Instructions to Town Clerk relative to stock.**

- (a) For registering Stock in the books to be kept for that purpose by the said Town Clerk;
- (b) For managing the creation, registration, issue, and transfer of Stock;
- (c) For paying interest on Stock;
- (d) For issuing Stock certificates.

13. For the purpose of the construction of the works by this Act authorised, the Lands Clauses Consolidation Law, 1872 (Law No. 16 of 1872), and all the clauses and provisions thereof (save in so far as they shall be expressly varied or excepted by this Act), shall be incorporated with this Act. **Incorporation of Lands Clauses Law**

14. The said Town Council may purchase or take such lands as may be required for the purposes of the works and undertakings authorised by this Act. **Expropriation of land.**

15. Nothing in this Act, and nothing done under its provisions, shall take away, abridge or prejudicially affect any right or interest by way of priority or otherwise of any person in or to the rates, rents or general revenue of the said Borough. **Former rights not to be affected.**

16. The short title of this Act shall be “The Ladysmith Electric Lighting Act, 1903.” **Short title.**

17. This Act shall commence and take effect from and after the promulgation thereof in the *Natal Government Gazette* (a). **Commencement.**

Act No. 32, 1904.

“To confer borrowing powers upon the Town Council of the Borough of Ladysmith, in addition to the powers heretofore given to the said Town Council and to the Local Board of Ladysmith, for the purpose of enabling the said Town Council to carry out certain works in order to provide for the improvement and extension of the Water Supply of the said Borough.”

[11th August, 1904.]

WHEREAS it is expedient to increase the borrowing powers of the Town Council of the Borough of Ladysmith to enable the said Town Council to carry out certain works in order to provide for the improvement and extension of the Water Supply of the said Borough:

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of the Colony of Natal, as follows:—

Loan authorised, £35,000.

1. The Town Council of the Borough of Ladysmith is hereby authorised to borrow from time to time the moneys required for the purpose of carrying out certain works in order to provide for the improvement and extension of the Water Supply of the said Borough to an amount not exceeding Thirty-five Thousand Pounds (£35,000) Sterling.

Application of moneys.

2. The moneys borrowed under this Act shall be applied to the object mentioned in the last preceding section, and to no other object.

Incorporation of Law 16, 1872.

3. “The Lands Clauses Consolidation Law, 1872” (Law No. 16 of 1872), and all the clauses and provisions thereof (save in so far as they shall be expressly varied or excepted by this Act) shall be incorporated with this Act.

Authority to take lands.

4. The Town Council of Ladysmith may purchase or take the lands or user of lands required for the purpose of the works and undertaking authorised by this Act.

Moneys to be raised upon stock.

5. The Town Council of Ladysmith is authorised to issue in the manner provided by the “Ladysmith Loan and Waterworks Law of 1890” (Law No. 15 of 1890), and as provided by Act No. 39 of 1899, stock for the moneys to be borrowed under this Act, and the stock issued under this Act shall be deemed to be stock issued under the provisions of the said Law No. 15 of 1890 and Act No. 39 of 1899, and shall be a charge upon, and shall, with the interest thereon, be payable out of the rates, rents, and

revenues of the Borough in the same way as the stock issued under the said Law No. 15 of 1890 and Act No. 39 of 1899. **Act 32, 1904.**

6. Sections 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 of the Ladysmith Loan and Waterworks Law of 1890 shall be deemed to have been incorporated, *mutatis mutandis*, in this Act, and wherever in the said Law the Local Board and the Township of Ladysmith are referred to, such reference shall for the purpose of this Act be deemed to be a reference to the Town Council and the Borough of Ladysmith respectively. Certain sections of "Ladysmith Loan and Waterworks Law of 1890" incorporated.

7. The fund called "The Waterworks Loan Sinking Fund," created under Section 7 of Act No. 39 of 1899, shall be kept up in terms of the provisions of the said section until such time as the moneys raised in terms of this Act shall have been fully paid off. "Waterworks Loan Sinking Fund."

8. In addition to the security created by Law No. 15 of 1890, and by this Act, the said Fund shall be held and reserved specially as a security for all moneys borrowed under the powers conferred by this Act, subject, however, to the special provision that the moneys borrowed under this Act shall rank as a second charge on the said fund, second only to the moneys already borrowed under the powers conferred by the Law No. 15 of 1890, and the Act No. 39 of 1899. Security.

9. The interest accruing from any investments of the said Fund may be taken and applied by the said Town Council as part of the General Revenue of the Borough. Interest may be applied as General Revenue.

10. The Town Council of Ladysmith is authorised to draw such water as may be required from the Klip River or any other source or sources of supply at any and all point or points below that shown on the plan filed with the Clerk of the Legislative Council and the Clerk of the Legislative Assembly, and to lead such water through pipes and conduits, and to lay such pipes and conduits within the area shewn in the said plan, and to make all necessary dams, reservoirs, and filter beds and service tanks and other works, and with wagons, carts and vehicles, or otherwise, to have access to the pipe route, dams, reservoirs, filter beds, tanks, and other works, for purposes of construction, examination, or repair, or other purposes of the work, and to distribute such water, and from time to time to do such further and other acts, matters, and things, and to exercise such further powers from time to time as shall be necessary to carry out the objects of this Act. Drawing of water from Klip River authorised.

11. If the taking, impounding, diversion, appropriation or conveyance of water under the authority of this Act shall deprive any person of any water or right of water which he may at the time of such taking, impounding, diversion, appropriation, or convey- Existing water rights—compensation

Act 32, 1904. ance of water possess or be entitled to possess and shall thereby cause damage to such person or to his property, such person shall be entitled to recompense or compensation to be settled in case of difference as if the diversion of water constituted a damage to the land within the meaning of the 65th Section of the Lands Clauses Consolidation Law, 1872.

Water rate. 12. No person shall be entitled to dispute any water rate or act of the Town Council of Ladysmith or its officers authorised by the said Law No. 15 of 1890, on the ground that the water in respect of which such rate shall be levied or act done, shall in fact have been brought elsewhere than from the Klip River or otherwise than under the said Law No. 15 of 1890, and all water supplied by means of the works authorised by this Act shall, for the purposes of Sections 19, 20, 22 and 24 of Law No. 15 of 1890, be deemed to be water supplied under the said Law No. 15 of 1890.

Framing of By-Laws. 13. The powers to make by-laws given to Town Councils under Law No. 19, 1872, and any like Law or Act, are extended to the Town Council of Ladysmith for all the purposes of this Act.

Offences. 14. If any person shall pollute any water led under the authority of this Act, or shall obstruct any person in discharge of his duty in connection with the Waterworks hereby authorised, or shall mischievously do any damage to property connected with the Waterworks, such person, on conviction thereof before the Magistrate having jurisdiction, shall be liable to a penalty for each offence not exceeding £10, to be paid to the Borough Fund, or in default of payment, to imprisonment, with or without hard labour, for a period not exceeding one month, and any person charged with contravening this Act may be prosecuted by any Officer appointed in that behalf by the Ladysmith Town Council.

Commencement. 15. This Act shall commence and take effect from and after promulgation thereof in the *Natal Government Gazette* (a).

LAND ACQUISITION.

[See "LANDS (IMPROVEMENT)."]

LANDLORD AND TENANT.

[As to rights and liabilities of landlord where premises are used as a brothel, see "CRIMINAL LAW," page 4.]

LAND (SALE AND PURCHASE).

[See "CONTRACTS."]

(a) 16 Aug., 1904,
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LANDS IMPROVEMENT.

[See "AGRICULTURE."]

	Page.
ACT No. 20, 1901 (Xanthium Strumarium Burr Weed)	1
ACT No. 24, 1902 ("The Land Acquisition Act, 1902")	1
ACT No. 12, 1904 (Law 38, 1874 to apply to <i>Cnicus diacantha</i>)	3
ACT No. 40, 1904 ("Locust Extermination Act, 1904")	3

Act No. 20, 1901.

"To include the Xanthium Strumarium Burr Weed in the Xanthium Spinosum Law No. 38, 1874."

[19th August, 1901].

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. From and after the passing of this Act the provisions of the Xanthium Spinosum Law No. 38, 1874, shall apply as fully and effectually to the Xanthium Strumarium Burr Weed as though such weed had been originally included in the said Law, together with the Xanthium Spinosum Burr Weed.

Law 38, 1874
extended.**Act No. 24, 1902.**

"To empower the Governor in Council to acquire suitable lands in the Colony for the settlement thereon of persons of European descent who will beneficially occupy and improve the lands so acquired, and for other public purposes."

[19th June, 1902.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. This Act may be cited as "The Land Acquisition Act, 1902." Short title.

2. The Governor in Council may, and is specially authorised to acquire, by purchase, exchange, or by expropriation, any lands in the Colony which may be deemed suitable for the settlement thereon of persons of European descent who will beneficially occupy and improve the lands so acquired, or which may be Authority to
acquire lands

Act 24, 1902. required for such other public purposes as the Governor in Council may deem necessary: Provided always, however, that lands which are already beneficially occupied to the satisfaction of the Governor in Council, shall be held exempt from expropriation.

Purchase and exchange of lands.

3. The Governor in Council may, through the Minister having charge of the administration of this Act, negotiate with any owner of lands, in any part of the Colony, for the purchase or exchange of any lands which the Government may have determined to acquire for the purposes of this Act, and may conclude such purchase or exchange as the case may be at such price and on such terms and conditions as the Governor in Council and the owner of the said lands may eventually agree upon, and may upon conclusion of such purchase or exchange execute, or cause to be executed, all deeds of transfer and writings, and may do and perform all such acts as may be necessary for the completion of such purchase or exchange (a).

Compulsory expropriation.

4. If no agreement be come to between the owner and the Government with reference to the sale and purchase or exchange of any lands which the Government may have determined to acquire for the purposes of this Act, the Governor in Council through the Minister, may, and is specially authorised to expropriate such lands compulsorily in the manner provided in the Lands Clauses Consolidation Law, 1872, which said Law is, except as is varied by this Act, incorporated with and forms part of this Act, and the Government shall be a Corporation for the purpose of the said Law and of this Act, and shall hold and exercise all the powers and privileges of a Corporation under the said Law, 1872.

Transfer of acquired lands.

5. The owner of any lands acquired under this Act shall duly transfer the same to the Colonial Government, and for that purpose shall execute all such documents as may be necessary: Provided, however, that in the event of the refusal or neglect of such owner to transfer the same, then the Supreme Court may, on notice to the owner, summarily order the same to be transferred by the Registrar of Deeds in the name and on behalf of such owner.

Expropriation of part or whole of a block of lands.

6. Whenever the Government shall propose to expropriate part only of a block of land which, in the opinion of the owner, will materially and prejudicially affect the utility or occupation of the remainder, the owner shall be entitled to claim before the arbitration appointed under the said Lands Clauses Consolidation

(a) See Act No. 44, 1904, s. 67, under *N.B.*—In terms of sec. 8, this Act has tit. "AGRICULTURE," as to allocation of monies for the purposes of this Act. now expired.

Law, 1872, that the entire block shall be expropriated or none, and the said arbitration shall decide the said claim in addition to the question or questions submitted to them under the provisions of the said Lands Clauses Consolidation Law, 1872. **Act 24, 1902.**

7. The Governor in Council shall have power to make all necessary Reserves for public purposes out of any of the lands acquired or expropriated under this Act, but no such lands shall be appropriated for private or ecclesiastical endowments. **Creation of public reserves.**

8. This Act shall be and remain in force and operation from the date of the promulgation thereof to the thirty-first day of December, 1903. **Duration of Act.**

9. The Governor in Council shall have power to make rules and regulations for the proper carrying out of the provisions of this Act. **Regulations.**

Act No. 12, 1904.

“To amend, and extend, the provisions of the Xanthium Spinusum Law of 1874.”

[8th July, 1904.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. The provisions of the *Xanthium Spinusum* Law No. 38, 1874, shall apply to the thistle known as *Cnicus diacantha*. **Law 38, 1874, to apply to *Cnicus diacantha*.**

2. The Governor may appoint such officers as may be required for carrying out the provisions of Law No. 38, 1874, and such officers shall perform the duties and exercise the authority given by the said Law to Magistrates in other than judicial matters, and to inspectors, without limitation as to the summer or other season. **Appointment and jurisdiction of Officers**

3. Law No. 38, 1874, Act No. 20, 1901, and this Act shall be construed together as one Act. **Construction of Law.**

Act No. 40, 1904.

“To provide for the Extermination of Locusts.”

[13th August, 1904.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. This Act may be cited as the “Locust Extermination Act, 1904.” **Short Title.**

Act 40, 1904.

Repeal.

2. Act No. 33, 1895, Act No. 30, 1898, and Act No. 42, 1901, are hereby repealed, without prejudice to any liability incurred, or the prosecution of any offence, or to the validity of any regulation, order or notice made or given, save so far as may be inconsistent with this Act.

3. In this Act :—

Definitions.

“Minister” means the Minister charged with the administration of this Act.

“Person” includes a firm, company, society or corporation.

“Locusts” means the insects called respectively “*Acridium purpuriferum*” and “*Pachytylus migratorius*,” while in the stage known as Hoppers or Voet-gangers.

“Owner” includes the person holding land under lease from the Crown, and the purchaser of Crown Lands not yet transferred.

“Owner or occupier” includes joint owners or occupiers, and the agent or manager of an owner or occupier.

“Land” includes all Crown Lands, Native Locations and lands of the Natal Native Trust.

“Farm” means any rural property, inclusive of Crown Lands and lands of the Natal Native Trust, and applies to Europeans, Natives, Indians, and others.

“Officer” means any officer appointed under the provisions of this Act or of the regulations.

Rules.

4. The Governor in Council may, from time to time, make and alter such regulations as may be required to give full and complete effect to this Act.

Orders.

The Governor may make and enforce all such orders as may be necessary for the extermination of locusts and for carrying out the provisions of this Act.

Officers.

5. The Governor in Council may from time to time appoint a Chief Locust Officer and such other officers as may be required to carry out this Act, and may delegate to him or them such of the powers and authority hereby conferred on the Governor as he may think proper.

Proclamation of Locust Area.

6. The Governor may, from time to time, by Proclamation, declare any portion of the Colony to be a locust area, within the meaning of this Act.

Occupiers and Owners may be ordered to assist.

7. The Governor may at any time order the occupiers of land in any locust area, and, in the case of unoccupied lands, the owners thereof, whether Europeans, Natives, Indians, or others,

to concur in such steps and to take such action as he may order for exterminating locusts upon the lands so owned or occupied. **Act 40, 1934.**

8. When any such order shall have been made by the Governor, the Chief Locust Officer shall have authority to carry out the same, and to make, issue, and cause to be served upon the persons affected thereby all orders and notices required for giving effect thereto. **Chief Locust Officer's powers.**

Any such orders or notices, and any other orders or notices made or given by officers under this Act or the regulations, shall be in such form and shall be served in such manner as may be prescribed by the regulations.

When any person upon whom an order or notice is required to be served is absent from the Colony or cannot be found, service may be made upon any known agent. **Order may be served on Agent.**

9. If any occupier of land, or the owner as the case may be, or his agent, shall fail to forthwith comply with the directions contained in any order for the destruction of locusts, duly made and served upon him, the Chief Locust Officer may, by direction of the Minister, authorise any officer to enter, with such assistance as he may require, upon the lands of such person at all reasonable times and to carry out such order. **Failure to comply with orders.**

Any costs and expenses incurred in or about the carrying out of such order may be recovered by the Chief Locust Officer from the owner or occupier as the case may be. **Costs recoverable from Owner or Occupier.**

Nothing done under this section shall be deemed to relieve an owner or occupier or any other person from any prosecution or penalty to which he would otherwise be liable. **Prosecution.**

10. Any officer, and any person acting in aid or under the authority of such officer, may from time to time, upon such notice as may be prescribed by the regulations, enter into and upon the land of any person and may cut grass and take brushwood thereon or therefrom, and do all other things necessary for the purpose of carrying out the objects of this Act. **Cutting of grass and brushwood.**

11. The Government shall not be liable, nor shall the Governor be personally liable, for any loss or damage arising from, or caused by anything done under the authority of this Act. **Government and Governor not to be liable.**

12. The Chief Locust Officer and any officer or other person lawfully acting under the authority of the Minister or of an officer in the execution of this Act or the Regulations, shall not be deemed to be a trespasser by reason of entry upon any land, or liable for any damages occasioned by any act done under such authority or in the execution of his duty. **Officers not trespassers and not liable**

13. If any person is sued or prosecuted for anything done by him in pursuance or execution, or intended execution of this Act, **Plea in prosecutions.**

Act 40, 1904. or of any regulation or order made thereunder, he may plead generally that the same was done in pursuance or execution, or intended execution of this Act, or of the regulation or order made under authority of this Act, and may give the special matter in evidence.

Offences.

14. Where any matter or thing is by this Act, or by any regulation, order, or notice under the authority hereof, directed or forbidden to be done, or where any authority is given by this Act to any person to direct any matter or thing to be done, or to forbid any matter or thing to be done, and such act so directed to be done remains undone, or such act so forbidden to be done is done, in every such case every person offending against such direction or prohibition shall be deemed guilty of an offence against this Act.

**Punishment
for driving
locusts to
other property**

15. Any person who shall wilfully drive, or be a party to the wilful driving of locusts off any property on to any neighbouring property, shall be liable upon conviction to a fine not exceeding Fifty Pounds Sterling, or, as an alternative, to imprisonment, with or without hard labour, for any term not exceeding Six Months.

**Punishment of
Offences under
this Act.**

16. Every person guilty of an offence against this Act or any regulation passed hereunder, shall, except as otherwise specially provided, be liable to a penalty not exceeding Twenty Pounds Sterling, and, in default of payment thereof, shall be imprisoned, with or without hard labour, for any period not exceeding Three Months.

**Enforcement
of penalty.**

17. The enforcement of any penalty may be either by prosecution or by a civil suit at the instance of the Chief Locust Officer, who shall have the discretion of demanding, accepting or suing for the whole or any part of such penalty.

**Legal
proceedings.**

18. All prosecutions or suits for penalties under this Act or the regulations shall be cognizable in the Court of the Magistrate of the Division in which such offence shall have been committed or in which the offender may be found.

**Ingredients
&c., carried
free on Natal
Government
Railways.**

19. All ingredients, mechanical and other appliances, used in the destruction of locusts and the carrying out of this Act shall be carried free of charge over the Natal Government Railways.

LAW AGENTS (SCOTLAND).

[See "COURTS (SUPREME)."]

LEPROSY.

[See "PUBLIC HEALTH."]

LETTERS OF ADMINISTRATION.

[See "PROBATE."]

LICENSES AND STAMPS.

[See "FIRMS (REGISTRATION)"; "REVENUE."]

LIQUORS.

[See "INTOXICATING LIQUORS."]

LOANS.

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Act No. 4, 1900.

" For empowering the Governor to raise a Loan for certain Public Works."

[23rd June, 1900.]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

Loan of
£1,000,000
authorised in
accordance
with Law 10,
1882.

1. The Governor may borrow the sum of One Million Pounds (£1,000,000) Sterling in accordance with the provisions of the General Loan Law, 1882.

Application for
Moneys.

2. The money so raised shall be applied to the payment in whole or in part of such sums as may be required for any Railways, and their equipment ; Harbour Works ; Telegraphs ; or other public works of a permanent character,

which by any Act of Supply or other Act may be authorised to be paid for from loan funds.

Interest when
payable.

3. The interest upon the principal moneys borrowed under this Act shall be payable at the office of the Agent-General in London, or at such other place as may be agreed.

"Crown Agents
for the
Colonies."

4. Wherever in the General Loan Law of 1882 the " Crown Agents for the Colonies " are referred to, such reference shall for the purpose of this Act be deemed to be a reference to the Agent-General for the Colony of Natal.

Authority for
borrowing
sums not
exceeding
£500,000, re-
payable from
moneys raised
under the
principal loan.

5. The Governor in Council may borrow from time to time in anticipation of the raising of any portion of the loan authorised by this Act any sum or sums not exceeding at any one time in the whole the sum of Five Hundred Thousand Pounds (£500,000) Sterling, in such manner as may be most convenient for the

public service, and shall repay the moneys so borrowed out of the principal moneys to be raised under the provisions of this Act. Act 4, 1900.

The raising of any moneys under this Section, or any part thereof, shall not *pro tanto* exhaust the borrowing powers conferred by this Act.

The interest upon any sum borrowed under this Section shall be and is hereby charged upon and made payable out of the general revenue of Natal, and shall in no case form a charge against the loan authorised by this Act. Payment of interest.

6. This Act may be known as "The Public Works Loan Act of 1900." Short Title.

Act No. 29, 1901.

"For empowering the Governor to raise a Loan for certain Public Works."

[19th August, 1901.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. The Governor may borrow the sum of Three Million Pounds (£3,000,000) Sterling, in accordance with the provisions of the General Loan Law, 1882. Loan of £3,000,000 authorised in accordance with Law 10 1882.

2. The money so raised shall be applied to the payment in whole or in part of such sums as may be required for any

Railways, and their equipment;

Harbour Works;

Telegraphs; or other public works of a permanent character,

which by any Act of Supply or other Act may be authorised to be paid for from loan funds.

3. The interest upon the principal moneys borrowed under this Act shall be payable at the office of the Agent-General in London, or at such other place as may be agreed. Interest where Payable.

4. Wherever in the General Loan Law of 1882 the "Crown Agents for the Colonies" are referred to, such reference shall, for the purposes of this Act, be deemed to be a reference to the Agent-General for the Colony of Natal. "Crown Agents."

5. The Governor in Council may borrow from time to time, in anticipation of the raising of any portion of the loan authorised by this Act, any sum or sums not exceeding at any one time in the whole the sum of One Million Pounds (£1,000,000) Sterling, in such manner as may be most convenient for the public Authority for borrowing sum not exceeding £1,000,000 repayable from moneys raised under the principal loan.

Act 29, 1901. service, and shall repay the moneys so borrowed out of the principal moneys to be raised under the provisions of this Act.

The raising of any moneys under this Section, or any part thereof, shall not *pro tanto* exhaust the borrowing powers conferred by this Act.

Payment of Interest.

The interest upon any sum borrowed under this Section shall be and is hereby charged upon and made payable out of the general revenue of Natal, and shall in no case form a charge against the loan authorised by this Act.

Short title.

6. This Act may be known as "The Public Works Loan Act of 1901."

Act No. 40, 1903.

"For empowering the Governor to raise a Loan for certain Public Works."

[13th November, 1903.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Loan of £4,000,000 authorised in accordance with Law 10, 1882. How to be applied.

1. The Governor may borrow the sum of Four Million Pounds (£4,000,000) Sterling, in accordance with the provisions of the General Loan Law, 1882.

2. The money so raised shall be applied to the payment in whole or in part of such sums as may be required for
Railways, and their equipment;
Harbour Works;
Telegraphs;
Other public works of a permanent character,

which by any Act of Supply or other Act may be authorised to be paid for from loan funds.

Interest where payable.

3. The interest upon the principal moneys borrowed under this Act shall be payable at the Office of the Agent-General in London, or at such other place as may be agreed.

"Crown Agents."

4. Wherever in the General Loan Law of 1882 the "Crown Agents for the Colonies" are referred to, such reference shall, for the purposes of this Act, be deemed to be a reference to the Agent-General for the Colony of Natal.

£1,000,000 may be borrowed in anticipation of principal loan, to be repaid from moneys raised under principal loan.

5. The Governor in Council may borrow from time to time, in anticipation of the raising of any portion of the loan authorised by this Act, any sum or sums not exceeding at any one time in the whole the sum of One Million Pounds (£1,000,000) Sterling, in such manner as may be most convenient for the public service,

and shall repay the moneys so borrowed out of the principal **Act 40, 1903.**
moneys to be raised under the provisions of this Act.

The raising of any moneys under this Section, or any part thereof, shall not *pro tanto* exhaust the borrowing powers conferred by this Act.

The interest upon any sum borrowed under this Section shall be and is hereby charged upon and made payable out of the general revenue of Natal, and shall in no case form a charge against the loan authorised by this Act.

6. This Act may be known as "The Public Works Loan Act Short title.
of 1903."

Act No. 28, 1904.

"To empower the Governor to raise a Loan of £700,000, to be applied in payment of a certain public indebtedness in connection with the Northern Districts of Natal."

[3rd August, 1904.]

WHEREAS, in terms of the agreement for the annexation of the territories known as the Northern Districts, the Government of Natal, amongst other things, undertook to pay to the Government of the Transvaal Colony a sum of Seven Hundred Thousand Pounds (£700,000) Sterling :

AND WHEREAS it is expedient that a loan should be raised for the purpose of paying the said sum :

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. The Governor may borrow the sum of Seven Hundred Thousand Pounds (£700,000) Sterling, in accordance with the provisions of the General Loan Law, 1882. Loan authorised, £700,000.

2. The moneys so raised shall be applied in payment to the Government of the Transvaal Colony of the indebtedness undertaken by the Government of Natal as aforesaid. Application of moneys.

3. The interest upon the principal moneys borrowed under this Act shall be payable at the office of the Agent-General in London, or at such other place as may be agreed. Interest—where payable

4. Wherever in the General Loan Law of 1882 the Crown Agents for the Colonies are referred to, such reference shall, for the purposes of this Act, be deemed to be a reference to the Agent-General for the Colony of Natal. Reference in General Loan Law of 1882.

Act 28, 1904.

Governor may borrow £700,000.

5. The Governor in Council may borrow from time to time, in anticipation of the raising of the whole or any portion of the loan authorised by this Act, any sum or sums not exceeding at any one time in the whole the sum of Seven Hundred Thousand Pounds (£700,000) Sterling, by Treasury Bills, or in such other manner as may be convenient for the public service, and shall repay the moneys so borrowed out of the principal moneys to be raised under the provisions of this Act.

The raising of any moneys under this Section, or any part thereof, shall not *pro tanto* exhaust the borrowing powers conferred by this Act.

Interest payable out of general revenue.

The interest upon any sum borrowed under this Section shall be and is hereby charged upon and made payable out of the general revenue of Natal, and shall in no case form a charge against the loan authorised by this Act.

Short title.

6. This Act shall be known as "The Northern Districts Loan Act, 1904."

Act No. 46, 1904.

"To establish a Consolidated Loans Fund."

[5th September, 1904.]

WHEREAS it is expedient to systematise the Public Expenditure out of Loans and to make provision out of the Revenues of the Colony towards the redemption of the public debt:

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Short title.

1. This Act may be cited as the "Consolidated Loans Fund Act, 1904."

Interpretation

2. The expression "public debt of the Colony" or "public debt" as used in this Act, means all moneys which have already been, or which may hereafter be borrowed by the Colonial Government on the security of debentures or stock charged upon the public revenue of the Colony in terms of any Law or Act.

Establishment of Fund.

3. A Fund shall be established called the Consolidated Loans Fund, hereafter in this Act referred to as "the Fund," to which shall be credited and charged all receipts and payments in respect of the Public Debt of the Colony.

Accounts to be kept by Treasurer in name of Board of Commissioners.

4. Separate accounts of the Capital and Income of the Fund shall be kept by the Treasurer in the name of a Board of five Commissioners, to be called the Public Debt Commissioners (hereinafter called the Commissioners), who shall be charged

with the control and administration of the Fund, subject to this Act and the regulations made thereunder. **Act 46, 1904.**

To the Income Account of the Fund shall be credited such portion of each instalment of the various annuities created and hereafter to be created under this Act as may from time to time be necessary to provide for the interest charges due thereto upon the capital liability, for repayment of which the annuity was set up, in so far as such liability shall not already have been repaid by the operation of the annuity, and upon the Income Account shall be charged all payments for interest upon the public debt of the Colony, and likewise any Restitution Annuities created under Section 10 of this Act.

Income
Account.

To the Capital Account of the Fund shall be credited the balance of the instalments of all annuities after providing the sums required to be paid to the Income Account, as well as such other sums as are directed to be paid to the Capital Account of the Fund in this Act, and upon the Capital Account shall be charged all sums issued for expenditure chargeable against loans or for repayment of the public debt or other purposes as hereinafter provided.

Capital
Account.

The accounts of the Fund shall be audited by the Auditor-General and presented to Parliament.

Audit of
Accounts.

5. The Commissioners shall be the Treasurer of the Colony (who shall be *ex officio* Chairman of the Board), the President of the Legislative Council, the Speaker of the Legislative Assembly, and the Auditor-General, for the time being, together with one other official member to be nominated by the Governor-in-Council.

Constitution
of Board of
Commissioners.

6. (1) A terminable annuity equal to four per centum of the public debt incurred in respect of capital expenditure on Railways up to the 30th June, 1904, shall be paid to the Income Account of the Fund from the general revenue of the Colony for the service of such debt year by year for a period of sixty years beginning with the year ending 30th June, 1906, and ending with the year ending 30th June, 1965, but after the payment therefrom of the actual interest payable in respect of the then existing Railway debt, the remainder thereof shall be transferred to the Capital Account of the Fund.

Special pay-
ments to
Income
Account.

(2) The sum of £116,109 paid by the Government of the Transvaal Colony as the difference between the purchase price of the Railway from Van Reenen's to Harrismith due to this Colony and that of the Railway from Buffalo River to Vryheid due to the

Special pay-
ment to
Capital
Account.

Act 46, 1904.

Transvaal Colony shall be paid to the Capital Account of the Fund.

Further pay-
ments to—
1. Income
Account.

7. For the service of the remainder of the existing public debt, not provided for under the preceding section there shall be paid to the Income Account of the Fund, year by year, an annuity consisting of a payment (1) from the general revenue of a sum equal to three and a half per centum upon the amount of such remainder, and likewise (2) to the Capital Account of the Fund the several classes of money mentioned in the schedules of this Act until the aggregate amount, which shall have been carried to the Capital Account in respect thereof, after providing for repayments (if any) under Sections 14 and 15 of this Act, reaches the amount of the total liability on account of such debt at the passing of this Act. The payment from general revenue shall thereupon terminate, but the several classes of money mentioned in the Schedules shall continue, notwithstanding, to be paid to the Capital Account of the Fund until Parliament shall otherwise determine.

2. Capital
Account.

Further pay-
ments to
Capital
Account.

8. There shall likewise be paid to the Capital Account of the Fund the sums provided under previous Acts, on account of Sinking fund upon existing loans, which shall continue to be applied as provided by those Acts. The cancellation of Stock by the operation of such sinking funds shall, when the Stock is cancelled, be regarded as extinguishing *pro tanto* the unrepaid capital liability under Section 7 of this Act.

Adjustment of
Loan Funds.

9. (1) All loan funds in hand upon the 30th June, 1904, and all moneys raised hereafter by the creation of debt under existing or future Acts shall be credited to the capital account of the Fund. Provided that the receipts under this Sub-section shall be distinguished in such account from the receipts under Sections 6, 7, and 8 of this Act.
- (2) All moneys necessary for expenditure chargeable against loans shall, after the 30th June, 1904, be provided out of the capital account of the Fund.
- (3) Issues from the Fund under Sub-section 2 of this section shall be treated as advances, and be made subject to repayment thereto with interest by means of terminable annuities for such periods not exceeding 60 years as the Treasurer may, with the consent of the Commissioners, determine, regard being had to the durability of the works for which the expenditure is required.
- (4) The rate of interest for such advances shall be fixed from time to time by the Treasurer with the con-

sent of the Commissioners, having regard to the terms on which new loans can be raised, so that the advances may be made without loss to the Fund. **Act 46, 1904.**

(5) All annuities created under this section shall be charged on the general revenue of the Colony.

10. Whenever hereafter, upon the creation of new public debt, the amount realised on account of any loan, after deducting expenses of issue, is less than the amount of the capital liability contracted in respect thereof, there shall be charged upon the Income Account and paid to the Capital Account of the said Fund a terminable annuity to be called a Restitution Annuity, calculated to make good the amount of such deficiency before the date upon which the loan shall become redeemable. **Restitution Annuity.**

11. Any deficiency appearing upon the Income Account shall be charged upon the General Revenue of the Colony. **Deficiency in Income Account.**

12. The Commissioners may from time to time devote any sum standing to the credit of the capital account of the Fund and not required for advances under Section 9 of this Act, to the redemption or purchase of debentures or stock issued for the loans forming the public debt. **Credit balance of Capital Account may be devoted to redemption or purchase of loan debentures.**

All debentures or stock so purchased or redeemed, together with the interest coupons of such debentures, shall be immediately cancelled and destroyed.

13. Until such debentures or stock can be purchased on sufficiently favourable terms it shall be lawful for the Commissioners from time to time to invest, temporarily, and on the best terms procurable, any moneys available for redemption of debt under the preceding section. **Moneys may be invested.**

14. The Government may by notice in the *Natal Government Gazette* fix periods of time, after the lapse of which the several classes of money mentioned in the second Schedule of this Act shall be payable to the Capital Account of the Fund, and immediately upon the expiration of the appointed times all such money shall be paid to the Capital Account of the Fund, without prejudice to any claims which but for this Act might be competent to any persons in respect thereof. **Payment to Capital Account of moneys named in Schedule 2 after notice in Gazette.**

In fixing such periods regard shall in all cases be had to any law specially affecting any of such moneys.

In so far as this section refers to moneys in the hands of the Master of the Supreme Court, or the proceeds of investments thereof, it shall be immaterial whether such moneys shall come into the custody of the said Master before or after the passing of this Act,

Act 46, 1904.

Refunds.

15. (1) If any claim in respect of any moneys referred to in the two preceding sections shall be established at law the judgment shall be forthwith satisfied out of the Fund.
- (2) If any person shall prove to the satisfaction of the Governor in Council that he is entitled to any of such money, the Governor in Council may direct the issue of a warrant for the payment thereof out of the Fund.

Regulations.

16. The Governor in Council may from time to time make regulations for all matters necessary for giving effect to this Act.

SCHEDULE 1.

Schedules.

Moneys received for the redemption of quit rents or the conversion of leased lands into freeholds.

Proceeds of sales under the Customs Acts other than sales in execution of judgment.

Interest on moneys deposited with the Master of the Supreme Court which would accrue to the public revenue.

Proceeds of sales of old Government stores or materials in connection with works of which the cost has been defrayed out of loans.

The sum of £55,963 18s. 7d. which has been repaid by the Indian Immigration Trust Board on account of moneys advanced to them by the Government, and any further sums which shall be so repaid.

SCHEDULE 2.

Unclaimed expired Government debentures or stock: Unclaimed interest on Government debentures or stock.

Proceeds of the sale of unclaimed property or stock in the hands of the Master of the Supreme Court.

Unclaimed moneys deposited with the Master of the Supreme Court, or the proceeds of any securities representing same.

Unclaimed proceeds of pound sales.

Unclaimed postal and money orders.

Act No. 2, 1905.

“To empower the Governor to raise a loan of Six Hundred and Fifty Thousand Pounds (£650,000) Sterling for the construction of a line of railway from Bethlehem to Kroonstad, in the Orange River Colony, and for other purposes arising out of an agreement made between His Majesty’s High Commissioner for South Africa, and the Acting Commissioner of the Central South African Railways, of the one part, and the Government of Natal, of the other part.”

[8th May, 1905.]

WHEREAS by an agreement bearing date the tenth day of March, 1905, made between His Majesty’s High Commissioner for South Africa and the Acting Commissioner of the Central South African Railways, of the one part, and the Colonial Government of Natal, of the other part, which agreement has been ratified by an Act of Parliament, passed during the present session of Parliament, it is agreed that the Government of Natal shall construct, equip, maintain, and work, upon certain terms and conditions, a line of railway from Bethlehem, in the Orange River Colony, to Kroonstad, in the same Colony :

AND WHEREAS it is in the said agreement, amongst other things, provided that the Government of Natal shall advance to the Commissioner of the Central South African Railways the sum of One Hundred and Fifty Thousand Pounds (£150,000) Sterling by way of loan towards the cost of the line of railway from Bethlehem to Modderpoort, in the Orange River Colony, which loan may be repaid by instalments or otherwise at any time upon notice, and must be repaid in five years :

AND WHEREAS it is in the said agreement further provided that the Commissioner of the Central South African Railways may at any time after five years from the opening of the railway from Bethlehem to Kroonstad expropriate the same upon twelve months’ notice, and shall thereupon pay to the Natal Government the cost of construction and equipment of the railway :

AND WHEREAS the Governor may, under the provisions of an Act passed this Session, enter into an agreement for the construction of a railway from Kroonstad to Vierfontein :

AND WHEREAS it is necessary that a loan should be raised upon suitable terms for the construction and equipment of the said railways, and for the advance to be made as aforesaid :

Act 2, 1905.

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

Loan of
£650,000
authorised.

1. The Governor may borrow the sum of Six Hundred and Fifty Thousand Pounds (£650,000) Sterling in accordance with the provisions of the General Loan Law, 1882.

Loan, how to
be raised.

2. Such borrowing may be by Treasury Bills or debentures maturing not later than ten years after the passing of this Act as may be found convenient for the public service, and it shall be lawful to raise the whole or any part of the moneys temporarily by way of overdraft upon the security of such bills or debentures pending the sale thereof.

The renewal of such securities as may be issued for periods less than the full period allowed by the preceding sub-section and the issue of the like new securities in the place of amounts paid off shall be deemed to be within the borrowing powers under Section 1 of this Act: Provided that the total amount of the securities at any one time outstanding shall not exceed Six Hundred and Fifty Thousand Pounds (£650,000) Sterling, and provided that no such renewed or new securities shall mature at a later date than the ten years hereinbefore appointed.

How to be
applied.

3. The money so raised shall be applied to the following purposes :—

- (1) The construction and equipment of a line of railway from Bethlehem to Kroonstad, or to Vierfontein, in the Orange River Colony, in terms of an Act passed during the present Session of Parliament.
- (2) An advance by way of loan of the sum of One Hundred and Fifty Thousand Pounds (£150,000) Sterling to the Commissioner of the Central South African Railways for the purpose and subject to the terms of articles 6 and 7 of the above recited agreement of 10th March, 1905, or otherwise as provided in the said Act.

Interest,
where payable.

4. The interest upon the principal moneys borrowed under this Act shall be payable at the office of the Agent-General in London, or at such other place as may be agreed.

"Crown
Agents."

5. Wherever in the General Loan Law of 1882 the Crown Agents for the Colonies are referred to, such reference shall, for the purposes of this Act, be deemed to be a reference to the Agent-General for the Colony of Natal.

Loan to form
part of public
debt.

6. The moneys borrowed under this Act shall form a part of the public debt of the Colony within the meaning of the Consolidated Loans Fund Act, 1904: Provided, however, that

the provisions of sub-sections 3, 4, and 5, of section 9 of the said Act shall not apply to advances from the Consolidated Loans Fund for the purposes of expenditure chargeable against loans raised under this Act. **Act 2, 1905.**

7. All sums received by the Colonial Government as interest upon the advance of One Hundred and Fifty Thousand Pounds (£150,000) Sterling to be made as aforesaid shall be paid to the income account of the Consolidated Loans Fund and applied towards the payment of the interest due upon securities created under this Act, and the balance of the amount required for the payment of such interest shall be charged on the general revenue, and paid to the same account out of moneys provided by Parliament. Disposal of interest on advance to C.S.A. Railways.

8. (1) All moneys received in repayment of the advance of One Hundred and Fifty Thousand Pounds (£150,000) Sterling aforesaid, or on account of the expropriation of the aforesaid railway, shall be paid to the capital account of the Consolidated Loans Fund and applied as opportunity offers to the redemption of the securities issued under this Act in terms of Section 12 of the Consolidated Loans Fund Act, 1904. Disposal of principal moneys advanced to C.S.A. Railways.

(2) If at the expiration of a period of ten years after the passing of this Act the total received and paid to the Consolidated Loans Fund under the preceding sub-section is insufficient to repay the capital liability to the fund in respect of advances chargeable against the loans raised under this Act, the amount of such unpaid liability then outstanding shall be charged upon the general revenue.

9. This Act may be known as the "Orange River Colony Railway Loan Act, 1905." Short title.

Act No. 4, 1906.

"To authorise a Temporary Loan of £500,000."

[10th May, 1906.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. The Government may borrow the sum of Five Hundred Thousand Pounds (£500,000) Sterling, in accordance with the provisions of the General Loan Law, 1882. Loan authorised.

Act 4, 1906.

Mode of borrowing.

2. Such borrowing may be by Treasury Bills or Debentures, or otherwise, as may be most convenient for the Public Service, and the Securities for the Loan shall mature not later than ten years after the 30th day of June, 1907 (a).

Application of moneys.

3. The money so raised shall be applied to the following purposes :—

- (1) Payment of the cost of military measures and other steps taken by the Government in connection with the suppression of disturbances amongst the Native population and the restoration of order.
- (2) Repayment to the general revenue of advances made for the purposes aforesaid, as hereinafter authorised.

Advances from general revenue to be repayable from moneys borrowed.

4. Any moneys which have since the 1st day of January, 1906, been paid out of the general revenue on account of the purposes above-mentioned shall be deemed to be advances repayable from the principal moneys borrowed under this Act, and the Governor may, pending the raising of the loan, advance from the general revenue any further sums required for the said purposes.

Nothing contained in the Contingencies Fund Act, 1904, shall apply to any such advances, but they shall be deemed to have been made under the authority of this Act, and shall not be chargeable upon the Contingencies Fund, or, if they have already been so charged, they shall be re-credited to the said fund.

Repayment.

5. Notwithstanding the provisions of sub-section (3) of section 9 of the Consolidated Loans Fund Act, 1904, the general revenue shall be charged annually with such sums, beginning from the financial year 1907-1908, as shall be sufficient to repay the principal sums borrowed under this Act, together with the interest thereon in such a period, not exceeding ten years, as may be fixed by the terms of the loan.

References in General Loan Law, 1882.

6. Wherever in the General Loan Law, 1882, the Crown Agents for the Colonies are referred to, such reference shall, for the purposes of this Act be deemed to be a reference to the Agent-General for Natal.

Interest, where payable.

7. The interest upon the moneys borrowed under this Act shall be payable at the office of the Treasurer in Natal or of the Agent-General in London, or at such other place as may be agreed.

Short title.

8. This Act may be known as the "Temporary Loan Act, 1906."

(a) See Act No. 47, 1906, s. 8, post.

Act No. 47, 1906.

“To authorise a further Temporary Loan of £500,000, and to amend Act No. 4, 1906.”

[5th September, 1906.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. The Governor may borrow the sum of Five Hundred Thousand Pounds (£500,000) Sterling in accordance with the provisions of the General Loan Law, 1882. Loan author-
ised.

2. Such borrowing may be by Treasury Bills or debentures, as may be found convenient for the public service, such securities maturing not later than ten years after the 1st day of September, 1906, and it shall be lawful to raise the whole or any part of the moneys temporarily by way of overdraft upon the security of such bills or debentures pending the sale thereof. Mode of
borrowing.

The renewal of such securities as may be issued for periods less than the full period allowed by the preceding sub-section and the issue of the like new securities in the place of amounts paid off shall be deemed to be within the borrowing powers under Section 1 of this Act: Provided that the total amount of the securities at any one time outstanding shall not exceed Five Hundred Thousand Pounds (£500,000) Sterling, and provided that no such renewed or new securities shall mature at a later date than the ten years hereinbefore appointed.

3. The moneys so raised shall be applied to the following purposes:— Application of
moneys.

Payment of the cost of military measures and other steps taken by the Government in connection with the prevention and suppression of rebellion amongst the Native population and the restoration of order.

4. The moneys borrowed under this Act shall form a part of the Public Debt of the Colony within the meaning of the Consolidated Loans Fund Act, 1904: Provided, however, that the provisions of sub-sections 3, 4, and 5 of Section 9 of the said Act shall not apply to advances from the Consolidated Loans Fund for the purposes of the expenditure mentioned in Section 3 of this Act. To form part
of Public Debt

5. For the purpose of redeeming the whole or any part of the Treasury Bills or Debentures issued under this Act, the Governor may authorise the creation and issue at any time after Creation and
issue of Natal
Consol. Stock.

- Act 47, 1906.** the 1st day of June, 1909, of Natal Consolidated Stock, up to such an amount as may be required for that purpose, and the debt thereby created shall be repayable as provided in subsections 3, 4, and 5 of Section 9 of the Consolidated Loans Fund Act, 1904.
- Interest, where payable.** 6. The interest upon the principal moneys borrowed under this Act shall be payable at the office of the Agent-General in London, or at such other place as may be agreed.
- Amendment of General Loan Law, 1882.** 7. Wherever in the General Loan Law of 1882, the Crown Agents for the Colonies are referred to, such reference shall, for the purposes of this Act, be deemed to be a reference to the Agent-General for the Colony of Natal.
- Act No. 4, 1906.** 8. The provisions of Section 2 of this Act shall apply to the Loan authorised by Act No. 4, 1906, save that the 30th day of June, 1907, shall be substituted for the 1st day of September, 1906.
- Short title.** 9. This Act may be cited as the "Additional Loan Act, 1906."

Act No. 53, 1906.

"To authorise the Governor to borrow the sum of £100,000 from the Consolidated Loans Fund, to be used for the prevention or suppression of the disease known as East Coast Fever."

[21st December, 1906.]

WHEREAS it is expedient to authorise a loan of £100,000 for the purposes hereinafter set forth :

AND WHEREAS sufficient funds for the purpose of such a loan have accumulated in the hands of the Public Debt Commissioners from receipts under Sections 6, 7, 9 (3) and 10 of the Consolidated Loans Fund Act of 1904 :

AND WHEREAS by the said Act it is provided that all moneys necessary for expenditure chargeable against loans shall be provided out of the capital account of the Consolidated Loans Fund :

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. The Governor may borrow and the Public Commissioners may advance from the Consolidated Loans Fund, such sums not exceeding One Hundred Thousand Pounds in all as may be required for the purposes hereinafter mentioned.

2. The advances so made shall be subject to repayment with interest in manner provided by Section 9 of the Consolidated

Loans Fund Act of 1904, and shall, together with the interest, be charged upon the general revenue of the Colony. **Act 53, 1906.**

3. The purposes to which this Act applies are as follows:

Loans to owners of cattle or others who are in need of such assistance for fencing their lands, for purchase of transport animals or otherwise for the prevention or suppression of the disease known as East Coast Fever:

4. (1) The loans mentioned in the preceding section shall be made through the department of the Minister of Agriculture.
 - (2) No loan or loans to a single person, partnership or company shall exceed in the whole the sum of £300.
 - (3) Such loans shall be made upon due security being given to the satisfaction of the Treasurer, by Mortgage Bonds or otherwise, and shall be repayable in equal annual instalments extending over a period of not more than five years, with interest at the rate of five per centum per annum.
 - (4) No loan shall be made until the borrower shall have given sufficient security for the application of the money as authorised by this Act.
5. All moneys received by way of interest upon the loans referred to in the foregoing section or in repayment of the principal of such loans shall be paid to the general revenue.

LOCATIONS (NATIVE).

[See "MUNICIPAL CORPORATIONS."]

LOCUSTS.

[See "LANDS (IMPROVEMENT)."]

LOTTERIES.

[See "GAMBLING."]

LUNGSICKNESS.

[See "ANIMALS (DISEASES)."]

MAGISTRATES.

[See "COURTS (MAGISTRATES')."]

MARGARINE.

[See "FOOD AND DRUGS (ADULTERATION)."]

MARRIAGE (NATIVES).

Act No. 44, 1903.

"To amend the Law relating to Marriages of Natives by Christian Rites."

[21st November, 1903.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Who may
solemnize
Marriages.

1. No Minister shall solemnize any marriage between Natives according to Christian rites unless he shall have been licensed for that purpose by the Governor.

The word "solemnize," as used in this Act and in Law No. 46, 1887 (a), includes the performance of the rites of marriage.

Application
for License.

2. Application for a license to solemnize such marriages shall be made to the Secretary for Native Affairs through the Magistrate of the Division in which the Minister resides. The granting or refusal of a license and the period during which it shall remain in force shall be in the sole and absolute discretion of the Governor. The license shall be in the form of the Schedule of this Act.

Unlicensed
person solemnizing
Marriage
to be liable to
a penalty.

3. Any person, not being a Minister licensed under this Act, who shall solemnize any marriage of Natives by Christian rites shall be guilty of an offence, and shall be liable to a fine or imprisonment according to the ordinary jurisdiction of Magistrates' Courts.

Penalty for
failure to keep
Marriage
Register.

4. Any Minister who has solemnized a marriage of Natives by Christian rites, and who fails to keep the marriage registers and transmit the copies of duplicates of marriage registers as required by Law, shall be liable in respect of each such marriage to a fine not exceeding Ten Pounds Sterling.

(a) See under this tit. in Vol. 2.

MARRIAGE (NATIVES).

2

5. The provisions of Sections 12, 13, 14, and 15 of Law No. 46, 1887, shall, as from the date of the commencement of this Act, apply to marriages of Natives by Christian rites solemnized in Natal or elsewhere otherwise than under the provisions of the said Law, and to Natives so married and their children, in the same manner as if such marriages were marriages solemnized under the said Law No. 46, 1887.

Act 44, 1903.

Provisions of Act 46, 1887, to apply to all Marriages under Christian Rites.

6. No fee shall have to be deposited or paid under Section 6 of Act No. 17, 1894 (a), in the case of Natives married by Christian rites who may seek to obtain registration of the birth of a child in terms of the said section.

No fee for Registration of Birth.

7. This Act shall not take effect unless and until the Governor shall, by proclamation in the *Natal Government Gazette*, notify that it is His Majesty's pleasure not to disallow the same, and thereafter it shall come into operation upon such day as the Governor shall notify by the same or any other proclamation (b).

Commencement.

SCHEDULE.

Act No. 44, 1903.

LICENSE.

To a Minister of Religion to solemnize Marriages of Natives by Christian Rites.

Application having been made in terms of Act No. 44, 1903, by

A. B.,

a Minister of the Christian Religion, now residing at _____, in this Colony, for a license to solemnize Marriages of Natives by Christian Rites:

His Excellency the Governor has therefore been pleased to direct the issue of this License, in virtue whereof the said

A. B.

is authorised for a period of _____ reckoned from the date of these presents, to solemnize Marriages of Natives by Christian rites according to Law.

Dated _____ day of _____, 19

Secretary for Native Affairs.

MARTIAL LAW.

[See "INDEMNITY LAW."]

(a) See "REGISTRATION (BIRTHS)," Vol. 2.

(b) Came into operation on April 1, 1904. See Procl. No. 26, 1904, in *Natal Government Gazette*, 15 March, 1904.

MASTER AND (NATIVE) SERVANTS.

[See "LABOUR TOUTS"; and as to tog labour, see "MUNICIPAL CORPORATIONS."]

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Act No. 49, 1901.

"To facilitate the identification of Native Servants."

[23rd December, 1901.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Commence-
ment.

1. This Act shall not come into force unless and until the Governor shall, by Proclamation in the *Natal Government Gazette*, notify that it is His Majesty's pleasure not to disallow the same, and thereafter it shall come into operation on such date as the Governor may appoint by the same or any other Proclamation (a).

Interpretation
of terms.

2. In this Act:—

"Servant" shall mean any native employed for hire, wages, or other remuneration to perform any handicraft or engage in any bodily labour in agriculture or manufactures or otherwise, or in domestic service, or as a boatman, porter, miner, driver, herd or other occupation of a like nature (b).

(a) Promulgated in *Natal Government Gazette*, 24 December, 1901. Procl. No. 129, 1901.

(b) See Act No. 3, 1904, sec. 1, post.

“Master” shall mean any person employing for hire, wages, or other remuneration any native servant. For the purposes of this Act the word “Master” shall mean and include any body corporate, company, society or individual. **Act 49, 1901,**

“Service,” “Contract of Service,” and the like expressions shall be understood in reference to the foregoing definitions.

3. This Act is not to apply to natives rendering service to a landlord in lieu of rent, when such service is rendered upon the farm on which the natives live, nor to any other service performed on the land on which they live (a). **Excision of natives rendering farm service in lieu of rent.**

4. A pass granted to any Native under Law No. 48, 1884, or under any Law or Act for regulating the introduction of labourers into Natal, shall be a sufficient identification pass for all the purposes of this Act, for so long as such pass remains in force. **Pass under Law 48, 1884, to suffice for purposes of this Act.**

5. No native shall after the commencement of this Act enter into a contract of service, or offer himself for engagement as a servant in this Colony, or (save as is hereinafter excepted), continue in any employ as a servant, or be registered as a togt labourer, or under Law No. 21, 1883, unless he shall have obtained the pass provided for in this Act, and every person intending to engage a native as a servant shall first require the native to produce his pass. **Obligation upon natives to obtain pass before taking service.**

Such pass is in this Act referred to as an identification pass.

6. Any native who is in service at the date of the commencement of this Act, or who, during a term of service loses his identification pass, may obtain a temporary pass, as hereinafter described, from the office of the Magistrate of the Division where he is employed. **Temporary passes.**

7. One of the officers attached to each Magistrate’s Office in the Colony shall be appointed by Government as a Pass Officer for the purpose of signing and issuing identification passes and temporary passes. In his absence, or if he be prevented from attending, any other officer of the Department may, with the Magistrate’s written approval, sign and issue such passes on his behalf. **Pass Officers.**

8. The officer shall attend daily during the ordinary office hours to receive applications for passes. **Attendance of Pass Officer.**

9. For the purpose of obtaining an identification pass a native shall attend before the Pass Officer of the Division in **Application for pass.**

(a) See Act No. 3, 1904, sec. 4, post,

Act 49, 1901. which he resides, and shall furnish to the Pass Officer the particulars necessary to be entered in the register.

Enquiry and decision.

10. Before granting an identification pass or temporary pass the Pass Officer shall in every case satisfy himself, so far as the circumstances seem to require, that the application is proper, and may in his discretion withhold the issue of a pass until he is satisfied that it ought to be granted. In case of doubt the officer may require the native to be accompanied by his kraal head, or by some accepted person, to testify to his identity, and the correctness of the information given.

No such pass shall be granted if the Pass Officer is satisfied that the applicant is already under a contract of service (a).

Women and children.

11. The Pass Officer shall not issue a pass to any woman, or to any female child, or to any male child appearing to him to be under the age of fifteen years, without the consent of the husband, parent or guardian, as the case may be.

Identification passes: particulars of:

12. Identification passes, with their counterfoils, shall be in the form of Schedule A, printed on durable material, and bound in books.

They shall be numbered consecutively year by year, and the register thereof shall be kept in such manner as may be prescribed by the Secretary for Native Affairs.

to be kept by native and exhibited.

Every native to whom an identification pass is issued shall keep it always in his possession, and shall exhibit it whenever called upon to do so by his master, or by a police officer or constable.

Master to keep labour book.

Every master employing a native servant, other than a registered togt labourer, shall keep a labour book, in which he shall copy the identification pass of every native whom he may employ.

Master not to keep pass.

The master shall on no pretext keep a servant's identification pass, unless with the consent of the Native.

13. [Repealed by Act No. 3, 1904.]

Form and Duration of temporary pass.

14. A temporary pass shall be in the form of Schedule B, and the period thereof shall in no case exceed six months, but it may be renewed upon the Pass Officer being satisfied that the former contract of service still subsists.

A temporary pass shall not be available for the purposes of any new contract of service.

New pass to replace lost pass.

15. A native who has lost his identification pass may obtain a fresh pass from the office in which the former pass was issued, upon satisfying the Pass Officer of the fact, and upon payment of a fee of one shilling.

(a) See addition to this sec. enacted by Act No. 3, 1904, sec. 3, post.

This payment shall not be required in the case of a temporary pass to take the place of an identification pass lost during service. **Act 49, 1901.**

16. If any native who has obtained an identification pass in one Magisterial Division shall change his residence to another Division he shall present his pass to the Pass Officer of the Division into which he has removed. The Pass Officer shall record the pass, and inform the officer by whom the pass was issued, who shall record the change of residence. **Change of residence.**

17. If a native who is in service is convicted of any of the crimes to which this section applies, the Clerk or Registrar of the Court shall, as soon as conveniently may be, inform the Pass Officer by whom the pass was issued of the particulars of the conviction and sentence, and such officer shall record the same, and shall make a note thereof against the entry of registration. **Record by Pass Officer of convictions of certain crimes.**

This section shall apply to all crimes of the following classes or akin thereto:—Theft, fraud, rape, and all crimes of indecency.

18. The Governor in Council may from time to time make rules for the purpose of carrying out the provisions of this Act, and for regulating any matters necessary for giving full and complete effect to the same. All such rules shall be published in the *Natal Government Gazette*. **Rules.**

19. Any native who shall after the first day of January, 1902, enter into a contract of service, or be or continue in service without having an identification pass, as required by this Act, shall be guilty of a contravention of this Act. **Offence of being in service without a pass.**

20. The following shall also be contraventions of this Act:— **Other Offence**

Making any false statement or pretence for the purpose of obtaining or assisting anyone to obtain an identification pass, or a duplicate or copy thereof.

Using a false pass, or one belonging to another person, for the purposes of deceit.

Using any deceit for the purpose of evading the provisions of this Act.

The withholding of a native's identification pass.

21. All contraventions of this Act, or of any Rules thereunder, shall be cognisable in the Courts of Magistrates, and shall be punishable according to the ordinary criminal jurisdiction of the said Courts. **Jurisdiction over offences.**

SCHEDULES.

[Repealed by Act No. 3, 1904.]

Act No. 50, 1901.

“To amend the Master and Servants’ (Native) Act, 1894.”

[23rd December, 1901.]

BE IT ENACTED by the King’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. Section 36 of Act No. 40, 1894, is hereby repealed, and the following section is enacted in lieu thereof:—

Any servant who shall be tried for an offence under this Act shall return to his master immediately after the trial, or, if sentenced to imprisonment immediately upon completion of his term of imprisonment, and if he shall not do so he shall be deemed guilty of the offence of being unlawfully absent from his master’s premises within the meaning of Sub-section (2) of Section 26 of this Act, and he may be arrested by any constable and brought before the Magistrate and tried summarily, and it shall not be necessary in such a case for the master to lay a complaint or to appear in support of the charge, provided that it sufficiently appear by other evidence that such offence was committed.

Act No. 3, 1904.

“To amend Act No. 49, 1901, entitled Act ‘To facilitate the Identification of Native Servants.’”

[28th March, 1904.]

BE IT ENACTED by the King’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. Act No. 49, 1901, shall apply to Natives of the under-mentioned classes in the same manner as to servants:

Policemen,
Persons in service as messengers,
Natives engaged in washing and laundry work,
Jobbers,
Ricksha pullers.

2. Section 13 of Act No. 49, 1901, is hereby repealed, and the following section is enacted in lieu thereof:

If any master employs a native servant without such

servant having produced his Identification Pass he shall be guilty of a contravention of this Act. **Act 3, 1904.**

3. The following shall be added to Section 10 of Act No. 49, 1901 : Addition to Section 10 of principal Act.

The Secretary for Native Affairs shall have full authority and discretion in any case to order that an Identification Pass shall be granted or refused.

4. Notwithstanding the provisions of Section 3 of Act No. 49, 1901, in cases where a Native tenant has agreed with his Landlord to render service to the Landlord, it shall be lawful for either party to require the other, on reasonable notice, to attend, and he shall be bound to attend, before a Magistrate, and when the Magistrate shall have ascertained the agreement between the parties, he shall destroy any existing Identification Pass and issue to the Native a new Identification Pass, endorsing on such new Pass the period during which the Native is to render service to the Landlord, and during such period no person other than the Landlord shall be entitled to hire the services of such Native. The appearance of the Landlord before the Magistrate may be by himself or by an Agent, or by delivery of the Landlord's statement in writing of the terms and period on and during which the Native has agreed to render service. It shall be the duty of the Magistrate to satisfy himself that the Native agrees to the terms. Any notice under this section by a Landlord to a Native shall not be taken to have been effectually given unless personally served or unless left at the kraal of such Native at a time when the Native is on the farm where his kraal is situated. Issue of Passes to Native tenants under obligation to render service in lieu of rent.

Whenever a Native shall cease to reside upon private land he shall, on giving satisfactory proof and on surrendering his endorsed Pass to a Magistrate, be entitled to obtain a new Identification Pass, and whenever a Native shall move from the land of one private owner to another the Native appearing before the Magistrate with the new Landlord shall, upon the surrender of his existing Pass, be entitled to the issue of a new Pass with the endorsement of the period, if any, during which the Native is to render service to the Landlord.

5. Schedules A and B of Act No. 49, 1901, and the references thereto in the Act, are hereby repealed. Passes shall be in such form as may be prescribed by rules. Repeal of Schedules.

6. Upon the conviction of any person for having obtained or used a Pass in contravention of Act No. 49, 1901, the Magistrate may declare such Pass to be null, and order it to be produced to him and cancelled. Cancellation of Pass upon conviction.

MASTER AND (NATIVE) SERVANTS.

Act 3, 1904.

Punishment
for contraven-
tion of Sec-
tions 2 and 4.

7. If any person contravenes the provisions of Sections 2 or 4 hereof, he shall be liable to a fine not exceeding Five Pounds (£5) Sterling, failing payment of which he shall be liable to imprisonment for a period not exceeding one month, with or without hard labour.

8. This Act and Act No. 49, 1901, shall be read and construed together as one Act.

MASTER OF SUPREME COURT.

[See "COURTS (SUPREME)"; "DERELICT STOCK FUND."]

MEDICAL PRACTITIONERS.

[See "PUBLIC HEALTH."]

METHYLATED SPIRITS.

[See "INTOXICATING LIQUORS"; "REVENUE."]

MILITARY MANŒUVRES.

Act No. 24, 1904.

“To facilitate Military Manœuvres.”

[23rd July, 1904.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. The Governor may, by order in Council, from time to time, authorise the execution of military manœuvres within specified limits, and during a specified period not exceeding three months: Provided that the same limits or any part thereof shall not be specified more than once in any period of two years.

Governor to authorise manœuvres.

2. Notice of the intention to make the order shall, within three months before the order is to come into force, be published six times in the *Natal Government Gazette*, and in at least two newspapers circulating generally within the District.

Publication of notice.

3. Where the execution of military manœuvres is authorised as hereinbefore provided, such persons as are under the authority of His Majesty, or of the Colonial Government, engaged in the manœuvres (in this Act referred to as the authorised forces) may, under the direction of the Governor within the specified limits and during the specified period:—

Powers of officials defined

(a) Pass over and encamp, construct military works not of a permanent character, and execute military manœuvres, on any land, whether under cultivation or not;

(b) Supply themselves with water from any sources of water, and for that purpose, dam up any running water: Provided always that such taking or damming up of water shall not interfere with the carrying on of any trade or industry, or with the reasonable requirements of any persons entitled to the use of such water: Provided further that before taking or damming water, or exercising any of the rights hereby conferred, reasonable notice shall, whenever practicable, be given to the person or persons likely to be affected.

4. Nothing in this Act shall authorise entry on or interference with any dwelling house, place of worship, school, factory, workshop, store or premises used for the carrying on of

Certain places excepted.

Act 24, 1904. any trade, business, or manufacture, farmyard, garden, orchard, pleasure ground or nursery ground, burial ground, ground attached to any place of worship or school, or tent or other enclosure attached to any dwelling-house.

Valuable timber not to be interfered with.

5. It shall be the duty of the Officer in Command of the authorised forces to prevent interference with any picturesque or valuable timber or other natural features of exceptional interest or beauty, and he shall be empowered to prevent trespass or damage to property by persons not belonging to the forces.

He shall also cause all lands used under the powers conferred by this Act to be restored as soon and as far as practicable to their previous condition.

Public rights reserved.

6. Subject to the provisions of this Act with respect to

(a) the closing of roads and footpaths ;

(b) obstruction of or interference with military manœuvres ;
and

(c) entering or remaining in camp ;

nothing in this Act shall prejudicially affect any public right or any right of common.

Closing of roads.

7. Any Magistrate may, if he shall think fit, on the application of a commissioned officer in command of the authorised forces or part thereof, make an order suspending, for not longer than forty-eight hours, any right of way over any by-roads or footpaths within the specified limits in his division: Provided, however, that no such order shall be made in respect of a main road until notice of the intended application shall have been published for seven days in at least one newspaper circulating in the district.

An order in respect of a main road shall not cover any longer time than twelve hours, and shall be subject to such terms and conditions as may be required by the Magistrate for the protection of individuals or of the public or of public bodies.

The Officer in Command of the authorised forces shall publish such notice of the order as the Magistrate may require for at least twelve hours before the order comes into force, and shall give all reasonable facilities for traffic whilst the order is in force.

Compensation for damage to property.

8. Where the execution of military manœuvres has been authorised as in this Act provided, full compensation shall be made in the manner hereinafter provided for any damage to person or property arising from putting in force any of the provisions of this Act and occasioned by the acts or defaults of the authorised forces, or any person or persons connected therewith,

including therein all expenses reasonably incurred in protecting person, property, rights, and privileges. **Act 24, 1904.**

9. (1) The Officer Commanding the authorised forces shall, with the concurrence of the Governor, appoint a Compensation Officer or Officers to determine as speedily as possible any claim for compensation under this Act, and to settle the amount payable. **Appointment of Compensation Officers.**

(2) The Governor may, after consultation with the Officer Commanding the Forces, make regulations with respect to the procedure for making and determining claims for compensation, for limiting the time within which claims must be made, and for regulating the mode in which compensation is to be paid. **Regulations.**

(3) If the amount of compensation is not settled by agreement between the Compensation Officer and the claimant, the claim shall be determined by arbitration in the ordinary course; and as soon as practicable after the decision is given such amount shall be paid to the claimant by the Officer aforesaid. **Arbitration.**

(4) All compensation for damage done and assessed as aforesaid shall, in so far as it has been caused by the Natal Militia, form a charge against the Public Revenue of the Colony. **Damage by Natal Militia.**

10. (1) If within the limits and during the period specified in an order authorising military manœuvres under this Act, any person **Punishment of persons wilfully obstructing manœuvres, &c.**

(a) wilfully and unlawfully obstructs or interferes with the execution of the manœuvres; or

(b) without due authority enters or remains in any camp; he shall be liable on summary conviction to a fine not exceeding Five Pounds (£5) Sterling, and in default of payment to imprisonment with or without hard labour for a period not exceeding seven days, and he and any animal or vehicle under his charge may be removed by any constable or by order of any Commissioned Officer of the authorised forces.

(2) If within the limits and during the period aforesaid any person **Destruction of flags and instruments punishable.**

(a) without due authority removes any flag or other distinguishing mark for the purposes of the manœuvres; or

(b) maliciously cuts or damages any telegraph or telephone wire or instrument laid down by or for the use of the authorised forces;

he shall be liable on summary conviction to a fine not exceeding

Act 24, 1904. Ten Pounds (£10) Sterling, and in default of payment to imprisonment with or without hard labour for a period not exceeding one month.

Crown lands
and N.N.T.
lands.

11. The powers given by this Act may be exercised in respect of Crown Lands, lands belonging to the Natal Native Trust, and any other lands by whatever title they may be held.

Short title.

12. This Act may be cited as the "Military Manœuvres Act, 1904."

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Act No. 36, 1903.

“To create a Militia Force.”

[5th October, 1903.]

WHEREAS it is expedient to repeal the Volunteer Act, 1895, and to create a Militia Force for the Defence of the Colony :

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

Short title.

1. This Act may be cited as the “Militia Act, 1903.”

Repeal : Saving as to Acts, proceedings, &c.

2. The Volunteer Act, 1895, and Act No. 25, 1896, amending the same, are hereby repealed, save as regards all proceedings taken or commenced before this Act shall come into operation, all which proceedings shall be as valid to all intents and purposes as if this Act had not been passed ; save also and except so far as regards all appointments, enrolments, rules, regulations, and orders made under the said Acts, which, until revoked, altered or amended, shall, in so far as the same are not in conflict with any of the provisions of this Act, continue in force, and, with the necessary changes, be deemed to be appointments, enrolments,

rules, regulations, and orders under this Act; and save only and except so far as regards any right acquired, or thing done, or any liability accruing, before the passing of this Act. **Act 36, 1903.**

3. In the interpretation of this Act, if not inconsistent with the context or subject matter, the following expressions shall bear the meanings respectively assigned to them:— **Definitions.**

“Camp followers” means sutlers, servants, and all others who accompany the Force, or any portion of the force when in Camp or on military service.

“Commanding Officer of a Corps” means the senior officer in command of any corps, or, in his absence, the officer next in seniority present and in uniform.

“Contingent” means two or more troops or companies combined together for administrative purposes, and also bodies of Natives, Indians, or other coloured persons called out for service under this Act.

“Corps” means and includes a Naval corps, regiments and troops of Mounted Rifles, regiments and batteries of Artillery, companies of Engineers, battalions and companies of Infantry, Transport, Medical, Veterinary, and Signallings corps, and any other corps which may be formed by direction of the Governor for military purposes. Troops or companies which are parts of a regiment shall not individually be deemed to be corps.

“Drawn for service” means balloted for and compelled to serve in the Active Militia.

“Efficient.”—A Militiaman who has completed the requirements for efficiency, as defined in the Regulations.

“Equipment” signifies arms, accoutrements, and all articles, except clothing, worn or carried by a Militiaman or his horse, and includes all ordnance, machine guns, harness, stores, tents, and ammunition issued to Militiamen individually or collectively.

“Members of the Active Militia” means the permanent staff, and all officers, petty officers, non-commissioned officers, and men of the Active Militia.

“Military Service” or “Active Service.” Militia-men shall be considered to be on Military or Active Service when called out by the Governor under this Act, or when assembled in, or during the time of any Camp of training or instruction, or when going

Act 36, 1903.

to or returning from any such Camp, or while engaged in any Military exercise or drill, or when called out for any escort, duty, or guard of honour, or while in uniform on duty at any time or place.

“Militia Reserve” shall include all men liable for military service under this Act, who are not enrolled in the Active Militia or Permanent Militia.

“Non-Commissioned Officer” includes an acting Non-Commissioned Officer.

“Officer” means any person holding a Commission, or whose appointment as an Officer has been notified in the *Natal Government Gazette*.

“Permanent Staff” shall include the Commandant of Militia and all Officers, Warrant Officers, Non-Commissioned Officers, Drill Instructors, Armourers, and Storekeepers, or any other persons appointed to the staff.

“Regiment or Battalion.” A combination of troops, companies, corps, or contingents formed into a body, not exceeding the establishment fixed by the Regulations made under this Act for a Regiment or Battalion.

“Regulations” means Regulations made under the provisions of this Act.

Commander-in-Chief of Militia.

4. The Governor shall be the Commander-in-Chief of the Militia of and in Natal.

Commandant.

There shall be a Commandant of Militia, with the rank of Colonel, appointed by the Governor in Council, and who shall be charged with, and be responsible for, the administration of all Militia and Defence matters, and for all fortifications, ordnance, ammunition, arms, armouries, stores, munitions, and habiliments of war, training vessels, and other vessels used for defensive purposes within the Colony.

Militia.

5. There shall be a Militia for the repression of civil disturbance, rebellion, or invasion, and the same shall be constituted in the manner hereinafter provided.

Constitution of Militia.

6. The Militia shall consist of all the male inhabitants of European descent in the Colony, from the age of 18 to the age of 50 years inclusively, not exempted by this Act, and not being aliens.

Every member of the Militia shall take the oath of allegiance to His Majesty the King, and his successors, which oath may be administered by any Officer of the Force, or Justice of the Peace.

7. The Militia shall be divided into four classes :—

Act 36, 1903.

- (a) Active Militia, consisting of all men who may volunteer, and who may be accepted for service in this class, and all other men who may be balloted for service as hereinafter provided.
- (b) Militia First Reserve, consisting of all unmarried men from 18 to 30 years of age inclusive who are not in the Active Militia.
- (c) Militia Second Reserve, consisting of all married men between 18 and 30 years of age inclusive, and all men from 31 to 40 years of age inclusive who are not in the Active Militia.
- (d) Militia Third Reserve, consisting of all men from 41 to 50 years of age inclusive who are not in the Active Militia.

Classes of Militia.

[The above shall be the order in which the Militia shall be liable to serve (a).]

8. All the Militia shall be liable to serve anywhere within the Colony or adjacent thereto for the defence of the Colony, with the exception of the men of the Militia Third Reserve, who shall only be liable to serve within their respective Military Districts.

Place of service.

9. The following persons shall be exempted from the operations of this Act :

Exemptions.

- (a) Judges of the Supreme Court and of the Native High Court.
- (b) Officers and men in His Majesty's Navy and Army on full pay or employed in any Imperial Department.
- (c) Ministers of religion.
- (d) Mail carriers and ferrymen.
- (e) Masters and crews of vessels actually employed as such and licensed pilots.
- (f) Persons afflicted with disease or infirmity duly certified as unfit for service by a medical practitioner appointed or approved by the Commandant of Militia.
- (g) Officers, keepers, and guards of gaols and lunatic asylums.
- (h) Police officers and constables.

Exemptions shall not prevent any person from serving if he desires it, and if he is not disabled by bodily infirmity.

In the event of the Militia being ordered out for service such members thereof as may be indispensable for the proper conduct

(a) The words in brackets are repealed by Act No. 36, 1906, post.

Act 36, 1903. of the public service may be ordered by the Governor to remain at their civil posts (*a*).

Military districts.

10. The Governor may from time to time divide the Colony into Military Districts for the purpose of this Act, and designate the same by such names as he may deem fit, and may alter or abolish such districts or designations and constitute others in place thereof respectively.

Suspension of Act.

11. The Governor in Council may suspend the operation of this Act, or any portion of the same in any such District or in any part thereof, for such time as he may deem fit.

District Commandant.

12. All the Militia in each Military District shall be under the command of a District Commandant, who shall, within his District, be responsible to the Commandant of Militia for the administration of all Militia and defensive matters, and for all fortifications, ordnance, ammunition, arms, armouries, stores, munitions, and habiliments of war, training vessels and other vessels used for defensive purposes within his district (*b*).

Annual roll of persons liable for service.

13. The District Commandant shall keep an annual roll, in which he shall enter the names and addresses of all persons residing within his district who shall be liable for service (*c*) in the various classes as aforesaid, and shall transmit a copy thereof, signed by him, to the Commandant of Militia, on or before the 31st day of December in each year. The District Commandant shall also enter on the roll the names of all persons liable to serve, who may subsequently come to reside in his district, and shall transmit a signed copy of such entries to the Commandant of Militia at such other times as the Commandant of Militia may require.

Liability for service.

14. All persons whose names are contained in such roll shall be liable for service in the Militia, and shall be bound to serve as herein provided (*d*).

Persons seeking exemption.

15. In the event of any person claiming to be exempt from the operation of this Act, or to be enrolled in a class other than that in which his name appears, he may state his case to the Commandant of Militia, who shall decide the question after such enquiry as he may think proper. Whenever exemption is claimed, whether on the ground of age or otherwise, the burden of proof shall be on the claimant.

(*a*) See also sec. 34 post, as to exemption by substitutes; and sec. 35 as to cancellation of exemption.

(*b*) See sec. 2 of Act No. 36, 1906, post.

(*c*) Failure to prepare the roll does

not relieve from liability to serve. See Act No. 36, 1906, s. 3, post.

(*d*) The omission of a person's name does not relieve such person from service. See Act No. 36, 1906, s. 3, post.

16. The strength of the Active Militia shall be determined by the Governor in Council from time to time, but in times of peace shall not exceed 4,000 men (a).

Act 36, 1903.

Strength of Active Militia.

17. Every Corps of Volunteers duly authorised previously to, and existing on the day on which this Act shall come into force, shall retain its present distinctive title unless and until the Governor shall otherwise direct; and such Corps and the Officers commissioned thereto shall be deemed to be a part of the Active Militia, with the right, however, to any member of the Volunteer Force to claim his discharge within one month after the publication of this Act in the *Natal Government Gazette*, and thereafter he shall be exempted from service in the Active Militia until drawn for service as herein provided.

Corps of Volunteers existing when Act takes effect.

18. The Active Militia shall consist of corps of the various arms and services as hereinbefore defined, in such proportion as the Governor may appoint; and the strength of each corps shall be regulated from time to time by the Governor, as far as possible on the same lines as may be in force for the corresponding unit in the regular forces in the Imperial Army.

Constitution of Active Militia.

19. The Governor may from time to time:

- (a) Accept the services offered through the Commandant of Militia of any persons desiring to be formed under this Act into an Active Militia Corps, on such terms as he may deem fit. And upon such acceptance the proposed corps shall be deemed lawfully formed under this Act as an Active Militia Corps.
- (b) Unite two or more corps or contingents into regiments or battalions, and appoint Field Officers and revoke such appointments; and may fix the headquarters and title of such regiment or battalion.
- (c) Disband or discontinue the services of any corps, or any part of it, or dispense with the services of any member, or cancel the union of separate corps into regiments or battalions:

Rights vested in the Governor in relation to corps, &c.

Provided that no new corps may be formed in a district in which in the opinion of the Commandant of Militia it is undesirable or unnecessary that a new corps should be formed.

20. The Governor may call out the Active Militia, or any part thereof, for active service at any time when it appears advisable to do so, by reason of war, invasion, or insurrection, or danger of any of them, and the Militiamen when so called out

Active service

(a) But see Act No. 36, 1906, sec. 4, post,

Act 36, 1903. for active service, shall be liable to serve for such time as the Governor in Council may direct.

District Commandant or officer commanding a corps may call out for service.

21. The Officer commanding any Military District, or the Officer commanding any corps of Active Militia may, upon any sudden invasion or insurrection, or imminent danger of either, call out the whole or any portion of the Militia within his command, and shall immediately report having done so to the Commandant of Militia, and the Militia so called out shall be deemed to be on active service until the pleasure of the Governor in Council is known.

Active service in cases of riot, &c.

22. The Active Militia, or any corps thereof, shall be liable to be called out by the Governor for Active Service with their arms and ammunition, in aid of the civil power in any case in which a riot, disturbance of the peace, or other emergency requiring such service occurs, or is likely to occur, whether such riot, disturbance or other emergency occurs, or is so anticipated within or without the District in which such corps is raised or organised.

Military service for guards of honour, escort, &c.

23. The Active Militia, or any corps thereof, or any part of a corps, shall also be liable to be called out for military service with their arms and ammunition under special or general regulations to act as guards of honour, escorts, or guards and sentries, or to fire salutes or for any other military duty.

Internal management of Active Militia Corps.

24. Any Corps of Active Militia may, with the approval of the Commandant of Militia, enter into articles of engagement and make regulations for its internal management not inconsistent with this Act or the regulations made by the Governor in Council.

Officers of Militia.

25. The Governor shall, by commission or otherwise, appoint Officers as District Commandants, and such other officers, members of medical staff, warrant officers, and non-commissioned officers, as may be necessary for the instruction, care, inspection, and equipment of the Militia.

Officers of Active Militia.

26. The Governor may, by commission or otherwise, appoint Officers of the Active Militia, on the advice of the Commandant of Militia, with such rank as may be found necessary for the efficiency of the force, and such officers shall, respectively, have such rank and authority in the force as are held relatively in His Majesty's Forces.

Rank.

27. All Officers of Militia and Permanent Staff shall rank amongst themselves according to their rank and seniority by the dates of their commissions.

Command of units as a whole.

28. Any body of Militia, consisting of independent units, shall be commanded by the senior officer present on duty and in uniform,

29. [Repealed by Act No. 30, 1905, s. 1.]

Act 36, 1903.

30. Officers holding Commissions may be placed on the retired list with honorary rank not exceeding that of Lieutenant-Colonel, or without honorary rank as may be prescribed by the Regulations; but no Officer who shall have retired retaining rank, and no Officer of His Majesty's Regular Forces who may have been retired retaining rank shall be bound to serve in any lower rank than that from which he retired.

Retirement of officers holding commissions.

31. All orders given by the Commandant of Militia or by any officer shall be valid and effectual if verbally given on parade, or issued in any other manner customary in His Majesty's Military service.

Validity of orders.

32. When the Active Militia is required to be organised at any time for military service, the Commandant of Militia shall, if necessary, insert a notice in the *Natal Government Gazette*, and in each daily newspaper published in the Colony, calling for Volunteers for the Active Militia, in the various military districts, and should enough men have not volunteered and been accepted in any district to complete the quota required for that district within the time fixed by said notice, the men enrolled in the Militia First Reserve shall be balloted for.

Active Militia in time of active service.

33. Any man balloted for service in the Active Militia shall be attached to such Corps in his Military District as the District Commandant may notify.

Attachment of balloted men.

34. Any Militiaman called out for active service may be exempted from service by furnishing as a substitute a trained Militiaman, accepted by the Officer commanding his corps and the District Commandant, but if, during any period of service, any man who is serving in the Active Militia as substitute for another becomes liable to service in his own person, he shall be taken for such service, and his place as substitute shall be supplied by the Militiaman in whose stead he was serving, or by another qualified and accepted substitute. No Militiaman shall be exempted from training or military service in time of peace by furnishing a substitute, and no Militiaman shall be exempted from active service by furnishing a substitute when the whole of the Active Militia is called out under this Act.

Substitutes.

35. The Governor may at any time cancel all exemption from service in terms of the immediately preceding section, and direct the Militiamen so exempted to join their respective Corps without delay.

Exemptions may be cancelled.

36. The period of service in the Active Militia, in time of peace shall, subject to the next succeeding section, be not less than three years, irrespective of the age of any man when enrolled in the Active Militia.

Period of service, three years.

Act 36, 1903.

Ballot of men
of three years'
completed
service.

37. Men who have served three years in the Active Militia, or in any of His Majesty's Imperial or Colonial Forces, shall not be liable to be balloted for service in the Active Militia until all the other men in the same class in the Military District in which they reside have volunteered or been balloted to serve.

Retirement in
times of active
service and
peace.

38. No member of the Active Militia shall be permitted to retire therefrom while on active service, without the special authority, in writing, of the Commandant of Militia; and no member of the force shall be permitted to retire in time of peace, without giving to his Commanding Officer one month's notice of his intention so to do: Provided, however, that any member of the Active Militia may be permitted to retire on shorter notice, if not on active service, if he is about to leave the Colony.

Period of drill
in each year.

39. The Commandant of Militia may order the officers and men of the Active Militia, or any portion thereof, to drill for a period not exceeding ten days in each year, either in brigade, divisional or regimental corps, and to such other drills as he may see fit, not exceeding four in each year.

Standard of
shooting to be
passed.

40. All officers and men of the Active Militia, excepting Commanding Officers and the Permanent Staff, shall be bound to pass such standard in shooting as may be prescribed by the regulations.

Efficiency.

41. In the event of any officer or man failing to attend such drills or to pass such standard in shooting, he shall not be deemed to be efficient unless he shall have been specially exempted by the Officer Commanding his Corps, with the approval of the District Commandant.

Pay.

42. The officers, non-commissioned officers and men of the Active Militia shall receive such pay as may be provided in the regulations and voted by Parliament.

Horse
allowance.

43. An efficient Active Militiaman, entitled to keep a horse for service, shall be paid, in respect thereof, such annual allowance as the regulations may determine.

Efficiency
grants.

44. There shall be paid to the Officer Commanding every Corps of Active Militia such annual sum in respect of each efficient man in such Corps as may be provided in the regulations and voted by Parliament. The regulations may direct that a greater sum shall be paid in respect of mounted men than of dismounted men, and such sum shall belong to the Corps, and be applied in furnishing the men with uniforms of the prescribed pattern, the materials for which shall be provided by Government at cost price, and for the benefit of the Corps generally.

45. [Repealed by Act No. 36, 1906, sec. 5.]

46. In case a member of the Militia shall be killed when on military service, or die from wounds received or diseases contracted on military service, provision shall be made for his family at the rates respectively set forth in the Schedule of this Act. **Act 36, 1903.**
Death of Militiaman on military service.

47. A member of the Militia injured when on military service shall receive such compensation as the Government may determine as fair and reasonable. Injury received on military service.

48. If any member of the Active Militia, when called out for or on Military or Active Service, shall be guilty of disobedience of orders, or of any act or neglect, to the prejudice of good order or military discipline, he may be tried and punished as hereinafter provided:— Punishments in time of active service.

(a) By the Senior Officer in Command at any station or encampment, or by the Commanding Officer of the offender's Corps.

(b) By an ordinary Court Martial.

(c) By a special Court Martial.

Provided that a Commissioned Officer shall only be tried by a Court Martial.

49. Any member of the Active Militia who shall be brought to trial for any offence may be kept in custody until the case is heard and determined. Custody of offender.

50. The tribunals in the foregoing section shall have power to sentence and award punishment within the following limits:— Punishments.

(a) A Senior or Commanding Officer may sentence the offender to pay a fine not exceeding Ten Pounds (£10) Sterling.

(b) An ordinary Court Martial may sentence the offender to pay a fine not exceeding Fifteen Pounds (£15) Sterling, or to imprisonment for any period not exceeding six months, or to both such fine and imprisonment, with or without hard labour; or, in the case of a non-commissioned officer, to be reduced to any lower grade, or to the ranks, in addition to or instead of the above punishment.

(c) A special Court Martial may sentence an offender to pay a fine not exceeding Fifty Pounds (£50) Sterling, or to imprisonment for any period not exceeding twelve months, or to both such fine and imprisonment, with or without hard labour; or in the case of a non-commissioned officer, to be dismissed from the Force, or reduced to any lower grade, or to the ranks, in addition to or instead of the above punishment; or, in the case of an officer,

Act 36, 1903.

in addition to or instead of any sentence of fine or imprisonment, as above stated, the Court may sentence the officer to be dismissed from the Force, or to loss of seniority, or to be reprimanded.

(d) An ordinary or special Court Martial may in addition to, or in lieu of any other punishment, cashier a commissioned officer and dismiss from the Force any member of the Militia and Defence Force.

The sentence of a Court Martial shall not be carried into effect until confirmed by the Governor in Council.

Appeals.

51. Any member of the Militia who may conceive himself aggrieved may appeal to the Commandant of Militia in respect of any matter not dealt with by a Court Martial.

Levying of fines.

52. A fine inflicted by a Commanding Officer or by a Court Martial may be levied by any person named therein, together with the costs, by a warrant signed by the Officer Commanding or President of a Court Martial, and directing sale of goods of the person liable to pay such fine.

Imprisonment

53. Any member of the Militia placed under arrest for any offence under this Act, or who may be sentenced to imprisonment by a Court Martial, may be imprisoned in any Gaol or in any building set apart as a guard room, or in any guard tent or enclosure, and every superintendent or keeper of a Gaol is to give effect to any warrant purporting to be signed by the President of a Court Martial and directing the imprisonment of the person named therein.

Prisons.

54. So long as any person shall be imprisoned in any guard room, prison, tent or enclosure in terms of this Act, the same shall, so far as he is concerned, be deemed to be a public prison, and such person shall be deemed to be a prisoner confined therein within the meaning of any Act regulating the management and condition of prisons and prisoners.

Punishment for refusal to take oath.

55. Every member of the Militia who refuses or neglects to take the oath hereinbefore prescribed when tendered to him by any Officer of the Force or Justice of the Peace shall be liable to imprisonment for a term not exceeding six months, and for every subsequent neglect or refusal to take such oath shall be liable to a further imprisonment not exceeding twelve months, and he may, on due proof in either case, be summarily committed by the Magistrate of any Division.

Prosecution under Act no bar to further proceedings.

56. Nothing in this Act contained shall prevent any member of the Militia from being prosecuted otherwise than under the provisions of this Act in all cases in which he would by law, without this Act, be liable to such prosecution,

57. The provisions of the Acts of the Parliament of Great Britain and Ireland, relating to Court Martial, and the discipline of His Majesty's Forces, and the regulations thereunder in force from time to time, shall be deemed to apply to all matters of discipline, and to the Militia constituted by this Act during Military service, except in so far as the same are in conflict with the provisions hereof or the regulations made hereunder.

Act 36, 1903.

Imperial Acts and regulations in regard to Court Martial and discipline to apply during military service.

58. The provisions of this Act in regard to discipline shall at all times apply to the Permanent Staff, to the Permanent Militia hereinafter provided for, and to all camp followers.

Discipline among Permanent Staff and Militia and camp followers.

59. Every person who may be required to give or produce evidence in any case pending before a Court Martial shall be summoned in writing by any Officer of the Militia, and all witnesses so duly summoned who shall not attend, or any attending who shall refuse to be sworn, or being sworn, shall refuse to give evidence or not produce the documents or things under their power or control, required to be produced by them, or to answer all such questions as the said Court Martial may legally demand of them, shall be liable to be dealt with by such Court Martial in like manner as if such witness had been a witness duly summoned to appear before a Magistrate in a criminal case pending in the Court of such Magistrate.

Witnesses in Court Martial case.

60. [Repealed by Act No. 36, 1906, sec. 7, post.]

61. The Militia Reserve shall be liable to be called out by the Governor in Council for Active Service at any time when it appears advisable to do so by reason of war, invasion, or insurrection, or danger of any of them, or in aid of the Civil Power. When the Militia Reserve or any portion thereof is called out for active service the provisions of this Act and the regulations relative to the Active Militia shall be deemed to apply to the Militia Reserve, excepting in so far as may be otherwise provided herein or in such regulations.

Militia Reservists in time of war, &c.

62. When members of the Militia Reserve are called out for Active Service, they shall be entitled to draw pay and allowance at the same rates as the Active Militia, or otherwise as the Governor in Council may appoint.

Pay of Militia Reservists.

63. The Officers of the Militia Reserves shall be appointed at the instance of the Commandant of Militia in pursuance of a vote passed by majority of the members of such Militia Reserves (a). Such votes shall be ascertained in the manner as may be provided for in the regulations to be issued under the authority of the Governor in Council.

Officers of Militia Reserves.

(a) Failing such election the Commandant of Militia may appoint the officers. See Act No. 36, 1906, s. 6, post.

Act 36, 1903.

Directions to
First Reserve
Militiamen to
fill vacancies.

64. The Governor in Council may from time to time direct the furnishing, by any district, of such number of Militiamen from the First Reserve as are required either for reliefs, or to fill vacancies in Corps on Active Service.

Imperial
Militia
Reserve:
Imperial
Naval
Reserve.

65. The Governor in Council may establish an Imperial Militia Reserve and Imperial Naval Reserve, composed of men in the Active Militia and Militia Reserve, who may volunteer for service in either of such Forces subject to such terms and conditions as shall be prescribed by the regulations, and the members thereof may be required to serve anywhere beyond the Colony in accordance with any agreement with the Imperial Government in that behalf.

Establishment
subject to vote
of Parliament.

66. The establishment of any such Reserve Forces shall be subject to the necessary financial provision by Parliament.

Pay in time of
peace.

67. The pay of all members of the Imperial Military Reserve or Imperial Naval Reserve shall in time of peace be subject to such conditions in regard to efficiency and otherwise as shall be prescribed by the regulations.

Vacancies to
be filled up
when Imperial
Reserves
ordered out of
Colony.

68. In the event of the said Imperial Militia or Naval Reserves, or any portion thereof, being ordered out of the Colony on Active Service, the Governor may take steps to increase the strength of the Active Militia by a number equal to the number of Active Militiamen so ordered out of the Colony on service.

Permanent
Militia.

69. The Governor in Council may, subject to any necessary financial provision, establish a Permanent Militia Force composed of men who may volunteer for service therein.

Such force shall be liable to serve at any place within or adjacent to this Colony for such period and on such terms and conditions as the regulations may determine, and the provisions of this Act, and the regulations applicable to Militia on Active Service, shall at all times apply to the members of the Permanent Militia, except in so far as the regulations may otherwise specially provide.

Permanent
Militia:
Subject to
whose orders.

70. Members of the Permanent Militia shall, unless on Active Service, be subject only to the orders of their own officers, of the Commandant of Militia, and of the officers and non-commissioned officers of the Permanent Staff.

Permanent
Militia as
police force.

71. The Governor may order the whole or any part of the Permanent Militia to proceed to any part of the Colony, and to act therein either in aid of, or as the police force of the Colony, and when so acting every member of the Permanent Militia shall have the same authority as constables and otherwise, and the same protection at law in that capacity as members of the Natal Police Force.

72. Officers of the Permanent Militia shall rank equally with officers of the Active Militia according to the dates of their commissions.

Act 36, 1903.

Rank of Officers of Permanent Militia.

73. It shall not be lawful for any member of the Permanent Militia, during the time he shall remain therein, to vote for the election of a Member of the Legislative Assembly, nor by word, message, writing, or in any other manner to endeavour to influence any person in voting, or in not voting, for any person who may be a candidate for a seat in the Legislative Assembly. If any member of the Permanent Militia shall contravene the provisions of this section, he may be adjudged to pay any sum not exceeding Fifty Pounds (£50) Sterling, to be recovered by any person who may sue for the same in the Court of any Magistrate having jurisdiction.

Members of Permanent Militia not to vote at Parliamentary Elections.

74. Every Government or aided school or college in the Colony shall have instituted therein Cadet Corps, or classes of instruction in military drill, exercises, and musketry; and arms and accoutrements necessary for the instruction of cadets over the age of 12 years shall be provided at the public expense.

Cadet Corps.

75. The Minister of Education may withhold payment of any grant in respect of the education of any pupil attending an aided school, which may be payable under any Act or Regulation relating to education, if such pupil shall have failed to attend regularly such classes of instruction when possible.

Education grant in respect of pupil not attending drill instruction may be withheld.

76. The Commandant of Militia, subject to the necessary financial provision, may establish in any Borough Riding Schools for the purpose of training cadets attending schools or colleges.

Riding schools for cadets.

77. The Commandant of Militia, subject to the necessary financial provisions, may establish in any Borough or Township a Senior Cadet Corps for the purpose of instruction in military drill, exercises, and musketry of youths above 14 years of age who may have left school or college, and who are not serving in the Active Militia.

Senior Cadet Corps.

78. Each member of a Senior Cadet Corps shall be entitled to such annual allowance as the regulations may determine, provided he shall have been returned as efficient in drill and musketry during the preceding twelve months.

Annual allowance to members of Senior Cadet Corps.

79. A capitation grant, to be determined by the regulations, shall be paid in respect of each Cadet Corps and Senior Cadet Corps, and the same shall be expended in furnishing uniforms for the cadets, the material for which shall be provided by the Government at cost price, and otherwise for the benefit of the Corps.

Capitation grant in respect of Cadet Corps and Senior Cadet Corps.

80. Officers and Instructors may be appointed to the Cadet Corps and Senior Cadet Corps by the Commandant of Militia,

Commandant may appoint officers and instructors.

Act 36, 1903. and shall form part of the Permanent Staff of the Commandant of Militia.

Native,
Indian and
coloured
contingents:
Power to call
out.

81. The Governor may call out any portion of the male Native, Indian, or coloured population, being British subjects, and not exempted by this Act, for military training or services in time of peace, or for Active Service in time of war, invasion, or insurrection, or danger of any one of them, or in aid of the Civil Power, and may form the same into contingents under officers who shall be subject to the Commandant of Militia.

Employment
as scouts,
drivers, &c.

82. Such contingents may be employed as scouts, drivers, bearers, and in all kinds of manual labour and fatigue parties necessary for the construction of defensive works, or for the health of the Militia while on Military or Active Service, and for carrying out the purposes of this Act.

Not to be
armed except
in special
cases.

83. No member of such contingents, excepting officers and scouts, shall be armed with weapons of precision, unless such contingents are called out to operate against other than Europeans.

To form part
of Militia
when on
service.

84. The members of such contingents, when ordered out for service in time of peace or war, and during such service, shall be deemed to be part of the Militia, and the provisions of this Act, and the Regulations to be made hereunder, shall apply to such contingents, and the members thereof, excepting in so far as may be otherwise provided in such Regulations.

Saving of
powers of
Governor as
Supreme Chief

85. Nothing in this Act contained shall be deemed to restrict the powers of the Governor as Supreme Chief over the Native population, or to prevent him from ordering the enrolment and arming of a certain number of Natives, Indians, or other coloured men, as a part of the Permanent Militia.

Establishment
of laagers,
forts, &c.

86. There shall be provided out of funds to be voted by Parliament, at such convenient place as the Governor may determine, all necessary laagers, forts, block-houses, defence works, arsenals, armouries, arms and ammunition, drill sheds, rifle ranges, targets, and all other buildings and things necessary for the defence of the Colony.

Refusal or
neglect to
return Govern-
ment or
corps property

87. If any Militiaman 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 of Government or Corps property, issued to him as a member of the Militia, it shall be lawful for the Commanding Officer to issue a warrant to any person to be named therein to seize such articles wherever found, and for that purpose to enter upon and search the dwelling of such member, or any premises in which there is reasonable ground for suspecting the articles may be found.

88. Any surcharge against the Commanding Officer of any Corps of Active Militia, as representing the Corps, for Government property, lost, injured, or destroyed, may be recovered by the Commandant of Militia by deduction from the capitation grant due to such Corps.

Act 36, 1903.

Recovery of surcharge against a Commanding Officer of Corps of Active Militia.

89. All moneys subscribed by or for the use of any Corps, all arms, stores, ammunition, medical 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 representing the Corps in trust for the Corps.

Property of corps: Property to vest in Commanding Officer in trust.

90. Any person:—

(a) Who shall willfully obstruct or impede any Corps or detachment of Militia while on the march or upon parade:

Offences and punishments.

(b) Who shall fail to give required information or who shall knowingly give false information to any officer or non-commissioned officer of Militia who may be engaged in making up the Militia roll:

shall, upon conviction before a Magistrate, be liable to a penalty not exceeding Five Pounds (£5) Sterling, or, in default, to imprisonment for any period not exceeding one month, with or without hard labour.

91. No action or prosecution against a member of the Militia for anything done or purporting to have been done, in pursuance of this Act, shall be commenced after the end of three months from the doing of such act.

Prescription of prosecution.

92. The Governor may at the request of any Regiment or Corps of Active Militia, expressed in such manner as he may direct, make such arrangement as may be necessary for the purpose of linking any such Regiment or Corps with any Regiment or Corps of His Majesty's Regular Forces: Provided, however, that no such linking shall be deemed to impose any greater liability for service on the members of such Regiment or Corps of Active Militia than is provided by this Act.

Linking of a regiment or corps with an Imperial regiment or corps.

93. The Governor in Council may, from time to time, appoint a Committee of Defence for the purpose of advising him on all matters of defence, and the members of such Committee shall hold office for such time as the Governor in Council may direct.

Committee of Defence.

94. The Governor in Council may, from time to time, make and alter regulations for the Active Militia, Permanent Militia, Militia Reserve, Imperial Militia or Naval Reserve, Cadets, Senior Cadets, and Native and other Contingents, or any portion or member thereof, respecting:—

Regulations.

Act 36, 1903.

- (a) Enrolment and establishment.
- (b) Advertising for acceptance or rejection of volunteers for service.
- (c) Balloting for service, and notifying men drawn.
- (d) Medical examination.
- (e) Administration of oaths of allegiance or declarations in lieu thereof.
- (f) Claims for exemption.
- (g) Transfer of men from one Corps to another.
- (h) Substitutes.
- (i) Duties of Commandant of Militia.
- (j) The commissioning of staff officers and the appointment of warrant and non-commissioned officers and men of the permanent staff, and their respective pay and duties.
- (k) The commissioning of regimental officers, and the appointment of warrant and non-commissioned regimental officers, and their respective duties.
- (l) Training of officers.
- (m) The retirement, dismissal, and discharge of officers, non-commissioned officers and men, and the reduction of non-commissioned officers.
- (n) Discipline and training: efficiency in musketry and drill.
- (o) Pay, capitation grant, service allowance, horse allowance, gratuities and compensation, and conditions on which the same are to be paid.
- (p) Arms, armaments, ammunition, and horses.
- (q) Pay and duties of regimental adjutant.
- (r) Management of horse insurance, remount, and Corps funds.
- (s) The auditing of Corps fund accounts.
- (t) Enrolment of horses for batteries of Artillery and mounted troops, and of vehicles and draught animals for transport purposes, and payment for same.
- (u) Linking of Regiments and Corps of Active Militia with Regiments and Corps of His Majesty's Regular Forces.
- (v) Definition of offences, arrest, and trial of offenders.
- (w) The holding of Courts Martial and Courts of Enquiry.
- (x) Payment and recovery of fines and penalties.

- (y) The pattern of uniforms and equipment to be worn and used, and the chevrons or badges to be worn for denoting efficiency and length of service. **Act 36, 1903.**
- (z) Ambulance and Hospital duties.
- (aa) Camps and discipline to be observed by camp followers, and the manner in which such discipline may be enforced.
- (bb) Facilities to be granted to persons in Government service for joining the Active Militia.
- (cc) Anything deemed necessary for the better government of the Militia, and for the carrying into effect the provisions of this Act.

95. All such regulations shall be published in the *Natal Government Gazette*. **Publication**

96. All regulations made under this Act shall be laid before both Houses of Parliament as soon as may be after they are made. **To be laid before Parliament.**

SCHEDULE.

Schedule.

1. Pension payable during widowhood to the widow of a Militiaman who may be killed in action or die within twelve months from wounds received in action or of disease contracted or injuries received while on military service, the sum of One Hundred and Fifty Pounds (£150) Sterling per annum.

In addition to the above there shall be paid to the widow a gratuity equal to one year's pay.

Every pension granted to the widow of a Militiaman shall cease upon the death or re-marriage of the widow.

2. Allowances payable to the children of Militiamen killed or dying as defined in Section 1 of the Schedule, Sixteen Pounds (£16) Sterling per annum for each child. Such allowance shall cease when any son attains the age of 18 years or when a daughter attains the age of 21 years, or upon her marriage at an earlier date. The cost of the education of the children of all Militiamen who may lose their lives whilst on active service shall be defrayed by the Government of the Colony at the Government schools of the Colony whilst such children remain in the Colony.

3. In the case of a Militiaman killed or dying as aforesaid leaving female relatives (other than those provided for in this Schedule) or aged or infirm parents all dependent on him, one half of the pension and gratuity payable to a widow may be paid to such relatives. The grant and discontinuance of such payments shall be in the discretion of the Government.

Act 36, 1903.

The receipt by a widow on account of her husband's services of any other pension, charitable provision, or charitable allowance from the public, shall not affect her claim to pension under this Act, and such pension shall not be assignable or attachable.

Act No. 30, 1905.

“To amend the Militia Act, 1903.

[18th August, 1905.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Repeal.

1. Section 29 of the Militia Act, 1903, is hereby repealed, and the following enacted in lieu thereof:—

Command of
Militia on
Active Service.

Whenever the Militia, or any part thereof, is called out for active service, by reason of war, invasion, or insurrection, the Governor in Council may place them under the orders of the Commander of His Majesty's Regular Forces in the Colony: Provided such Officer shall not be below the substantive rank of Colonel in the Army.

Registration of
transport.

2. The Commandant of Militia may at any time, with the approval of the Minister, prepare a register of all animals and vehicles suitable for transport or military purposes throughout the Colony or any part thereof.

Impressment
of transport.

Whenever the Militia, or any part thereof, is called out for Active Service by reason of war, invasion or insurrection, or in anticipation thereof, the Governor may by an order directed to the Commandant of Militia authorise the issue of requisitions, requiring all persons to furnish such animals, vehicles, and other necessary things as may be demanded from them for military use, and all persons from whom animals, vehicles, or other things, as aforesaid may be requisitioned shall forthwith furnish the same, otherwise the same may be taken possession of by, or on behalf of, the Commandant of Militia: Provided, however, that not more than fifty per cent. of the animals and vehicles suitable for transport or military purposes belonging to any person may be requisitioned (a).

(a) Presumably where a person has “fifty per cent.” means fifty out of every one animal or vehicle it may not be requisitioned. Query, whether every hundred, or, at the rate of fifty for every hundred.

3. The regulations under the principal Act may prescribe all matters necessary for giving effect to this Act, and in particular the payments to be made to persons from whom animals, vehicles, and other things are taken under requisition. **Act 30, 1905.**
Regulations.

Act No. 36, 1906.

“To amend the Militia Act, 1903.”

[25th August, 1906.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. The following paragraph in Section 7 of the Militia Act, 1903 (hereinafter called the principal Act), is hereby repealed, that is to say :— **Amendment of principal Act:**

“The above shall be the order in which the Militia shall be liable to serve.”

2. Notwithstanding the provisions of Section 12 of the principal Act it shall be in the discretion of the Governor in Council whether District Commandants shall be appointed or not. The officers at present holding such appointments may receive such other appointments on the permanent staff as may be determined. All power and authority vested by the principal Act in the District Commandant may be exercised by the Commandant of Militia, and he or any officer appointed for the purpose may do any act or thing which under the principal Act can be done by the District Commandant. **District Commandants**

3. The failure to prepare the roll referred to in Sections 13 and 14 of the principal Act, or to include therein the name of any person shall not relieve any person from liability to serve under the Act. **Person is liable to serve though not on the roll.**

4. Notwithstanding the provisions of Section 16 of the principal Act, it shall be lawful for the officers commanding the various Corps of Active Militia, with the approval of the Commandant of Militia, to enrol Officers, Non-Commissioned Officers and men in excess of the number mentioned in the said section, to be attached as Supernumeraries to such Corps. Such Supernumeraries shall be deemed to be members of the Active Militia, provided that they shall not be compelled to attend all the drills and parades which members of the Active Militia may be required to attend, and shall be subject to any special regulations which may be made. **Enrolment of supernumeraries.**

Act 36, 1906.

Repeal of sec.
45 of principal
Act.

5. Section 45 of the principal Act is hereby repealed, and the following is hereby enacted in lieu thereof:—Every member of the Active Militia who shall have been returned as efficient for two years continuously shall be entitled to receive such service allowance as may from time to time be prescribed by the Governor in Council in respect of each year's service thereafter, during which he shall have been returned as efficient, subject to such conditions as the regulations may prescribe: Provided, however, that the Governor in Council may suspend the payment of such allowances for such time as he may think fit.

Officers of
Reserves, how
appointed.

6. In the event of the members of the Militia Reserves in any district failing to elect officers in terms of Section 63 of the principal Act, the Commandant of Militia may appoint such officers as he may think fit to command the Reserves or any portion of them for such time not exceeding two years as he may determine.

Repeal.

7. Section 60 of the principal Act is hereby repealed, and the following is enacted in lieu thereof:—

Parades of
Reserves.

The Governor may authorise the Commandant of Militia to order the whole or any portion of the Militia Reserves to parade once in each year during peace for inspection of arms and for the preparation of the roll referred to in Section 14 of the principal Act. At least two parades shall be held each year at such times and places as the Officers of the Reserves may determine, subject to the approval of the Commandant of Militia, and each member of the Reserves shall attend one or other of such parades.

Parades of
First Reserves.

8. In addition to the annual parade referred to in Section 7 hereof, the Commandant of Militia may order the members of the First Reserve residing in boroughs or townships, or any portion of them, to parade not more than six times a year, not exceeding two hours each, for the purpose of drill, training, and musketry practice. The members of the First Reserves residing in other portions of the Colony may similarly be ordered to attend not more than three parades in each year in addition to the annual parade above mentioned. A parade shall mean Military service under Section 3 of the principal Act.

Exemption
from parades.

Any member of the First Reserve who has served for a period of not less than one year in the Active Militia or in His Majesty's Army or Navy, or in any Militia, Volunteer, Police, Burgher Force, or Irregular Corps in any part of the British Empire, or who possesses a certificate of efficiency in drill and musketry signed by the Officer Commanding his Reserve, shall, unless the Governor in Council may otherwise determine, be exempt from attending any such parades other than the said annual parade.

9. Any order for a parade of members of the Militia Reserve shall be deemed to be properly given if advertised twice in any newspaper circulating in the district in which such parade is to be held, and in such other manner as the Officers of Reserves may determine, providing for at least two weeks' notice in country districts. **Act 36, 1906.**

Order for parade when to be deemed properly given.

10. Any man liable to attend such parades ordered as aforesaid who, without good and sufficient reason, fails to attend same shall be liable for a first offence to a fine of not less than 10s., and not more than £2 sterling, and for a second or subsequent offence to a fine of not less than £1 and not more than £10 sterling. If any man is the possessor of a rifle or carbine sold or issued by Government, he shall be bound to bring with him and produce same at all such parades, and if he fails to do so he shall be liable to the aforesaid penalties.

Penalties for failing to attend parades

11. The senior officer for the time being of the Reserves in any Magisterial Division or any part of such Division, or in any district embracing portions of two or more Magisterial Divisions, shall in respect of the members of the Reserve in his command have all the power and authority conferred by the principal Act and the regulations on an Officer Commanding a Corps of Active Militia.

Powers of senior officers of Reserves.

12. The Governor in Council may raise by voluntary enlistment one or more Corps for special service, and the members of such Corps shall be deemed to be part of the Active Militia: Provided that the Governor in Council may by regulation or otherwise declare that certain sections of the principal Act or the regulations shall not apply to such Corps, and may make special regulations applicable to such Corps or the members thereof.

Special service corps may be raised.

13. The principal Act, Act No. 30, 1905, and this Act shall be read and construed together as one Act.

Joint construction.

MINES AND COLLIERIES.

Act No. 34, 1905.

“To amend the Natal Mines Act, 1899.”

[26th August, 1905.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Power to set off one half of license fees royalties, &c., against rent.

1. In any case in which one-half of the license fees, royalties, and penalties received by the Government are payable to the owner as provided by Section 57 of the Natal Mines Act, 1899, it shall be lawful for the person by whom such moneys have been paid to the Government to set off one-half of the moneys so paid against the rent or other payment due by him to the owner under any lease or other agreement under which the land is held, unless it shall have been otherwise expressly or impliedly agreed between the parties.

How in case of sub-lease.

2. In the case of a sub-lease or otherwise where any person or persons intervene between the person by whom such fees, royalties, and penalties are paid, such set-off shall be deemed to be claimable from the person from whom the land is immediately held, and by him and others intervening in turn.

In respect of what fees &c., set off is claimable.

3. The set-off provided for by this Act shall be claimable whether the payment of fees, royalties, and penalties shall have been made before or after the passing of this Act.

MISSION RESERVES.

[See “NATIVES (IN GENERAL).”]

MORTGAGE BONDS.

[See “CONTRACTS.” See also Act No. 44, 1904, sec. 19, tit. “AGRICULTURE as to mortgages over Agricultural holdings.]

MUNICIPAL CORPORATIONS.

Act No. 28, 1902.

“To make better provision in regard to the Togat labour system in Boroughs.”

[25th October, 1902.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. The Town Council of any Borough constituted under Law No. 19, 1872, may from time to time make By-laws in the ordinary manner for all the purposes of this Act. Such Town Council is hereinafter referred to as “the Town Council,” and the expression “togat man” as used in this Act means a day labourer or a person employed in service otherwise than under monthly or longer engagement, or a jobber, and applies only to natives.

Borough
By-laws.

Meaning of
“togat man.”

2. Upon the promulgation in the *Natal Government Gazette* of any By-laws made under this Act by the Town Council of Pietermaritzburg or Durban, the Proclamation by Sir Benjamin Chilly Campbell Pine, dated the 27th day of March, 1874, known as the Togat Regulations, shall cease to apply to such Borough, and section 296 of the Schedule to Law No. 19, 1891, known as the Code of Native Law, shall thereupon be repealed as regards such Borough: Provided that nothing done nor any liability or penalty incurred under the said Proclamation shall be affected by reason of the provisions of this section.

Supersession
of Togat Regu-
lations of 1874,
by By-laws of
Pietermaritz-
burg or
Durban.

3. No native shall be allowed to live in any Borough which has adopted by-laws under this Act, unless he be the proprietor or renter of any house or land within the Borough, or is in the monthly or yearly service of a resident in the Borough, or becomes registered under the By-laws as a togot man.

Conditions on
which Natives
may reside in
a Borough.

This section and the By-laws shall not apply to a native resorting to a town for the purposes of any judicial proceeding, or by the direction of his chief, or in the course of any lawful employment or service, or of any domestic or other business requiring a visit to the town, the proof of all which exceptions shall rest with him.

Save as aforesaid, every native remaining in such a Borough for more than five days shall be obliged to become registered as a togot man and to comply with the By-laws.

4. The By-laws may amongst other things:

(a) Provide for the registration of togot men;

(b) Require that togot men shall reside in a compound or

Scope of Togat
By-laws.

Act 28, 1902.

other place specially provided by the Town Council or licensed under this Act ;

- (c) Provide for the approval and licensing of private compounds for togt men, and for regulating their erection, structure, maintenance, and inspection, and for their being kept in a proper and sanitary condition ;
- (d) Make any proper or necessary rules for the conduct, supervision and regulation of compounds and the like places, and for the orderly behaviour of persons using the same, and for the observance by them of any proper discipline ;
- (e) Require togt men to wear badges and to comply with the directions regarding the same ;
- (f) Charge fees for the registration of togt men and for their residence in a compound or other place, and for any other advantages of the togt system ;
- (g) Require togt men to take service by the day under such conditions and for such rate of wages as the by-laws shall appoint ;
- (h) Provide for any other matters necessary or proper for giving full and complete effect to the objects of this Act.

Exclusion of certain classes of Natives.

Such By-laws may exclude from any of their provisions any classes of natives to whom it would be inconvenient to apply this Act, notwithstanding that they may come within the foregoing definition of togt men.

Licenses for private compounds.

5. A license fee of £3 per annum may be charged by the Town Council for each private compound. The granting or refusal of a license shall be in the discretion of the Town Council, without any right of appeal, provided that the granting of such license shall not be deemed to create a vested interest or right of renewal.

Application of togt revenue.

6. All revenues derived from fees, licenses, and fines under this Act and the Regulations to be framed thereunder, shall be kept in a Special Account, and shall not be used otherwise than in the administration of the Act.

Natives not to be harboured except as provided.

7. When the Town Council shall have provided compounds for the accommodation of togt men no person shall house or harbour any togt man, or any native who is by this Act required to be registered as a togt man, except in a compound.

Contraventions.

8. All contraventions of this Act or of the By-laws shall be prosecuted and punished in the same manner as contraventions of ordinary By-laws made under the provisions of Law No. 19, 1872, or of any like Act.

Act No. 2, 1904.

“To enable Town Councils to establish Native Locations.”

[17th March, 1904.]

WHEREAS it is expedient to provide for the establishment by Town Councils of Native Locations, in which certain Natives shall be compelled to reside :

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal as follows :—

1. The definition of the word “Native” appearing in Section 4 of Act No. 38, 1896, “To amend and consolidate the laws relating to the sale of intoxicating liquors,” shall be applicable to this Act.

Definition of
“Native.”

2. The Town Council of any Borough constituted under Law No. 19 of 1872 are empowered to establish Native Locations upon any lands, approved by the Governor, within which all Natives other than those hereinafter excepted may be compelled to reside, and such Town Council may, from time to time, with the approval of the Governor, close such locations and establish others.

Town Councils
empowered to
establish
Native
Locations.

3. This Act shall in no case apply to Natives belonging to the following classes :—

Exemptions.

(a) Those who are freehold owners of land within the Borough.

(b) Those who are exempted from the operation of Native Law.

(c) Those who are at the time actually employed in domestic service by the month, and for whom sleeping accommodation, to the satisfaction of the Town Council, is provided by their employers. The onus of proving that a Native is so employed shall be on the Native or his employer.

Any Town Council shall have power to exempt from the operation of this Act such other Natives as they may think fit.

Special
Exemptions.

The Town Council shall be bound to exempt from the operation of this Act such Natives in Government service as may be notified from time to time by the Government to the Town Council.

4. The Town Council of any Borough constituted under Law No. 19, 1872, may from time to time, subject to the approval of the Governor, make by-laws for the proper control of such locations, for the charging of fees and rents, for the prevention of the manufacture and sale of Kaffir Beer and other intoxicants

By-laws for
control of
Locations.

Act 2, 1904. therein, to impose penalties for any breach of this Act or of any Regulation passed thereunder, and generally for any other matters necessary or proper for the purpose of giving full and complete effect to the objects of this Act.

Residence in Locations to take effect from date provided in By-laws.

5. From and after such date as shall be provided for under the by-laws passed in terms of this Act by any such Town Council as aforesaid, all Natives, with the exception of those who may be exempted under Section 3 of this Act, shall thereafter be compelled to reside in the location or locations established by such Town Council.

On establishment of Locations, Town Council may destroy buildings formerly used by Natives.

6. When any location shall have been established in terms of this Act, and so soon as the date hereinbefore provided shall have expired, such Town Council shall be empowered to close, remove, or pull down any hut, dwelling-house, or other building within such Borough used as a sleeping place by any Native or Natives: Provided, however, that such Town Council shall make compensation for the value of such premises to the owner thereof, and, in case the owner thereof shall refuse to accept such compensation, then the amount of such compensation shall be settled under the provisions of the Arbitration Act No. 24, 1898: Provided, further, that in no case shall premises as aforesaid be closed, removed, or pulled down by such Town Council until the amount of such compensation shall have been agreed upon or settled.

Town Councils may take lands.

7. The Town Council of any Borough constituted under Law No. 19 of 1872 is hereby empowered, with the consent of the Governor in Council, to take lands within the Borough for the purpose of establishing a location or locations under this Act, and such lands may be taken under the provisions of the "Lands Clauses Consolidation Law, 1872," which for the purposes of this section is incorporated with this Act.

Incorporation of Law 16, 1872.

Authority to transfer.

8. The Registrar of Deeds is hereby empowered to give transfer of any lands acquired under the provisions of Section 2 of this Act free of transfer duty.

Act applicable to a Borough by resolution of Town Council.

9. This Act shall be applicable to any Borough so soon as the Town Council thereof shall have decided by resolution to adopt its provisions.

NATAL GOVERNMENT RAILWAYS.

[See "RAILWAYS."]

NATAL INSTITUTE OF ARCHITECTS.

[See "ARCHITECTS."]

NATAL MUSEUM.

Act No. 11, 1903.

“To incorporate the Natal Museum.”

[8th July, 1903.]

BE IT ENACTED by the King’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. A board of trustees, composed as hereinafter mentioned, shall be and is hereby constituted a body corporate by the name of “The Trustees of the Natal Museum,” by which name such body corporate shall have perpetual succession and shall have a common seal, and shall, by the same name, sue and be sued in all Courts of this Colony, and shall be capable in law to take, purchase, and hold to them and their successors any property movable or immovable, and to do all other matters and things incidental to or appertaining to a body corporate.

Board of Trustees.

2. It shall be lawful for the trustees to alienate, mortgage, or otherwise dispose of any property, movable or immovable, belonging to the said museum, save as is hereinafter excepted, with the consent in writing of the Governor in Council, or to borrow moneys for the use and purposes of the said museum upon the security of any moneys granted to the museum from the public revenue.

Power of alienation.

The powers under this section shall not, however, extend to the alienation or mortgage of or other charge upon the books, coins, or specimens, or the objects of science, art, or literature belonging to or kept at the museum, save by way of the sale or exchange of duplicate or spare articles.

Exclusion of Exhibits.

3. The said body corporate shall consist of twelve trustees, who shall in the first instance be the following persons:—

Constitution of Board.

Arnold Worthington Cooper,
 Christopher John Bird,
 George Thomas Plowman,
 John Leslie Masson,
 Ernest Hill,
 William Anderson,
 Claude Fuller,
 Edmund Neville Nevill,
 Herbert Watkins Pitchford,
 Morton Green,
 Charles Joseph Gray,
 Henry Clifden Burnup.

Act 11, 1903.

Vacancies.

4. All vacancies which may occur among the trustees by death, resignation, absence from the Colony, removal from office or otherwise, shall be filled up by the Governor in Council, and all appointments of new trustees shall be published in the *Natal Government Gazette*.

Quorum.

5. At every meeting of the said trustees five trustees shall form a quorum, and all questions shall be decided by the majority of votes of the trustees present. The Chairman of the meeting shall have a deliberative vote, and, in the event of there being an equality of votes, he shall also have a casting vote.

Management and superintendence.

6. The said trustees shall have the entire management and superintendence of the affairs, concerns, and property of the said museum; and in all cases not provided for by this Act it shall be lawful for the said trustees to act in such manner as shall appear to them best calculated to advance the objects of the said institution.

By-Laws.

7. The said trustees shall have power and authority to make and also repeal or alter all such by-laws and rules touching and concerning the management and good government of the said museum, and the income and property thereof, and for all matters of procedure, and any other matters or things relative to the same, as to them may seem fit for the effectual attainment of the objects of the institution, the security of its property, and the administration of its concerns. No such by-laws or rules shall have effect until they shall have been approved by the Government and thereafter published in the *Natal Government Gazette*.

Buildings and Lands.

8. The museum buildings and the lands upon which they stand shall remain the property of the Government and shall be exempt from all municipal rates and taxes. This exemption shall not extend to lands or buildings owned or kept by the trustees otherwise than as the premises of the museum itself.

Free Admission.

9. The said Natal Museum shall be kept open free of charge to visitors during at least four days in the week.

Reports.

10. The said trustees shall once at least in every year, and also whenever the pleasure of the Governor shall be signified in that behalf, report their proceedings and the progress of the said institution to the Governor; and a copy of every such report shall be laid before Parliament within one month after the commencement of each ordinary session thereof.

Accounts of Expenditure.

11. Accounts of the expenditure of the museum shall be furnished annually by the trustees to the Government for examination and audit, and in order that an abstract thereof may be published in the *Natal Government Gazette*.

NATAL NATIVE TRUST (a)

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Act No. 26, 1902.

"To empower the Natal Native Trust to take or to grant the use of water from rivers flowing through Trust Lands."

[4th October, 1902.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. The Natal Native Trust shall be empowered to lead and use water from any river, both banks of which belong to the said Trust, for supplying power for industrial purposes, and to construct weirs and other necessary works, and may also lease to any person, for a term not exceeding fifty years, the right to take and use such water as aforesaid, and to construct the necessary works.

Powers to lead and use water, construct weirs, lease water rights, &c.

2. This Act shall not be deemed to prejudice the rights of riparian owners upon any such river, above or below the point at which any water may be led out.

Saving of rights of riparian owners.

(a) The "Natal Native Trust" is a body which was incorporated by Letters Patent dated 27th April, 1864. The Letters Patent ordain that "the following persons, that is to say, the officer for the time being administering the Government of Our said Colony, and the Members for the time being of Our Executive Council of Our said Colony, and such other persons as may from time to time be appointed by Us, Our Heirs or Successors by Warrant under Our or Their Sign Manual and Signet (such appointments being in all cases revocable at Our or Their Pleasure), shall be one body politic

and corporate in deed and in name by the name of the "Natal Native Trust," and by that name shall have perpetual succession, and shall have a common Seal which may by them be selected and altered at their pleasure; and also by that name shall and may sue and be sued, plead and be impleaded in all Courts whether of Law or Equity as well in Our United Kingdom of Great Britain and Ireland as in Our Colonial Possessions."

As to trespassing on Natal Native Trust lands in pursuit of game, see tit. "GAME."

Act No. 27, 1902.

“To empower the Natal Native Trust to raise a Loan of Fifty Thousand Pounds Sterling, for the purposes of Irrigation.”

[4th October, 1902.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Authority to borrow £50,000.

1. The Natal Native Trust, constituted and incorporated by Royal Letters Patent bearing date the 27th day of April, 1864, is hereby empowered to borrow, from time to time, moneys not exceeding in the whole the sum of Fifty Thousand Pounds Sterling.

The Natal Native Trust is in this Act shortly referred to as the Trust.

Application of loan.

2. The moneys to be borrowed under this Act shall be used and applied for the following purposes, that is to say: The Irrigation of lands belonging to the Trust, the construction of weirs, furrows, and all other necessary works connected therewith, and any other purpose necessary for carrying out any such schemes of irrigation.

Debentures.

3. The moneys hereby authorised to be borrowed shall be raised upon debentures issued either in England or Natal, each debenture being for a sum of One Hundred Pounds sterling or a multiple of One Hundred Pounds, and the loan shall be raised upon the most favourable terms which can be obtained.

Interest.

4. The principal sums secured by the debentures shall bear interest at a rate not exceeding four per centum per annum, and shall be repaid within forty years from the first day of July, 1902.

Loan charged upon lands, &c., of the Trust.

5. The moneys borrowed under this Act and the interest thereon shall be a charge upon the lands, rents, and revenues of the Trust.

Sinking Fund.

6. The Secretary to the Trust shall half-yearly, from the date of the raising of the loan, or of any part thereof, appropriate and set apart from the revenues of the Trust a sum of money not less than one per centum of the principal moneys borrowed under this Act for forming a sinking fund, and such sum shall be paid to such persons, not being less than two in number, as shall be named by the Governor in Council as trustees for the sinking fund.

7. The said trustees shall accumulate the moneys so paid to them to form a sinking fund for the repayment of the loan authorised by this Act, by investing the same and the income thereof in some one or more securities of the Imperial Government of Great Britain or of the Government of a Colony of Great Britain.

Act 27, 1902.

Formation and investment of Sinking Fund.

8. The trustees may from time to time apply any part of the sinking fund in the purchase of debentures issued under this Act. All debentures so purchased, and the interest coupons attached thereto, shall be immediately cancelled and destroyed.

Purchase of Debentures out of Sinking Fund.

9. Subject as last aforesaid, the sinking fund shall be applied in payment, as and when the same shall become due, of the principal moneys for the time being owing on debentures issued under this Act.

Payment of principal out of sinking fund.

10. A special account shall be kept of rents and revenues received from lands, brought within any irrigation scheme wholly or partly paid for out of the moneys borrowed under this Act, and such rents and revenues shall be used and applied as follows :—

Application of moneys from lands brought within irrigation schemes.

- (a) For the payment to the trustees of the sinking fund of the half-yearly sum of not less than one per centum hereinbefore required to be paid to them.
- (b) For the payment of interest upon the debentures under this Act.
- (c) For the payment of the cost of the administration of this Act and of the expenses in and about the upkeep of the works authorised by this Act.

Act No. 19, 1904.

“To amend Act No. 27, 1902, entitled Act ‘To empower the Natal Native Trust to raise a Loan of Fifty Thousand Pounds Sterling, for the purposes of Irrigation.’”

[23rd July, 1904.]

BE IT ENACTED by the King’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal as follows :—

1. The moneys borrowed by the Natal Native Trust, under the provisions of Act No. 27, 1902, and the due payment of the principal and interest to become payable under the debentures to be issued in reference thereto, shall be guaranteed by the Colonial Government, and shall be a charge on the general revenue of this Colony.

Loan under Act No. 27, 1902, guaranteed by Colonial Government.

Act 19, 1904.

Form of
guarantee.

Natal Native
Trust to exe-
cute agree-
ment and
furnish secu-
rity to Colonial
Government.

Preference of
holders of
Debentures
and Colonial
Government
over assets of
Natal Native
Trust.

The guarantee shall be in such form as shall be determined by the Governor in Council, and shall be signed by the Colonial Treasurer.

2. The Natal Native Trust shall, and is hereby authorised to enter into and execute such agreement and furnish such security as the Governor in Council may deem necessary for the protection of the Colonial Government in respect of the guarantee to be given as aforesaid.

3. Subject to the preference given to the holders of debentures issued under the principal Act, all moneys which may be paid by the Colonial Government under the guarantee to be given as aforesaid, shall be a first and preferent charge upon the landed properties, rents, revenues and other assets of the Natal Native Trust.

Act No. 40, 1905.

“To empower the Natal Native Trust to transfer to the Wesleyan Mission in Natal a part of the Indaleni Mission Reserve as a glebe.”

[2nd December, 1905.]

WHEREAS a certain piece of land situate in the County of Pietermaritzburg and known as the Indaleni Mission Reserve, in extent six thousand one hundred and sixty-four acres, was on the eighth day of August, 1865, granted and transferred to the General Superintendent of the Wesleyan Missions in Natal upon trust for the purposes of missionary work amongst the Natives:

AND WHEREAS the said land was, by the Mission Reserves Act, 1903, vested in the Natal Native Trust as trustees in place of the former trustee:

AND WHEREAS it was customary in such cases to set apart a piece or pieces of such lands of the extent of five hundred acres more or less (commonly called a glebe) and to grant the same in freehold to the missionary body to whom such mission reserves were granted in trust, and it is expedient that a similar grant should now be made to the said Wesleyan Mission:

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. The Natal Native Trust are hereby empowered and required to select a piece of land (*a*) in extent five hundred acres more or less, in a suitable part of the aforesaid Indaleni Mission

(a) See Act No. 30, 1906, post.

Reserve and to transfer the same in freehold, without any charge, **Act 40, 1905.** except the expenses of and incidental to the transfer, to the General Superintendent of the Wesleyan Missions in Natal and to his successors in office, on behalf of the said Wesleyan Missions.

The said piece of land shall be described as the Indaleni Glebe. The transfer thereof shall be made upon the like terms and conditions as are commonly contained in the grants of the glebe lands hereinbefore referred to, and upon such further conditions as the Natal Native Trust may impose for the protection of the interests of any Natives who may at the time be lawfully resident upon the lands included in the glebe.

2. The Indaleni Glebe shall, when so transferred, be free from the operation of the Mission Reserves Act, 1903.

Act No. 30, 1906.

“To amend Act No. 40, 1905, relating to the Indaleni Glebe.”

[15th August, 1906.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows—

1. The land to be selected and transferred under the authority of Act No. 40, 1905, may consist of two pieces of land, which shall be chosen from suitable parts of the Indaleni Mission Reserve, and shall be known collectively as the Indaleni Glebe.

NATIVE LAW.

[See "COURTS (NATIVE)."]

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Act No. 1, 1901.

"To amend the Code of Native Law."

[8th January, 1901.]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Decision as to
who shall be
general heir.

1. Any question which shall arise as to who shall be deemed to be the general heir (as defined in Section 98 of the Schedule to Law 19, 1891) of a deceased chief in charge of a tribe, whether hereditary or otherwise, shall be decided by the Supreme Chief, whose decision shall be final.

Decision to be
preceded by
enquiry.

2. Before deciding any such question, the Supreme Chief shall cause enquiry to be made by three advisers, to be appointed by the Governor-in-Council, who shall report to the Supreme Chief through the Secretary for Native Affairs. Such advisers shall be selected for their knowledge of the customs, language, and laws of the Natives of this Colony.

No action to
be brought.

3. No action shall be brought in any court for deciding any question or dispute as to such heirship as aforesaid.

Repeal of con-
flicting Acts.

4. Any provisions of the Courts Act, 1898 (a), or any other Act which shall be in conflict with this Act, shall be and are hereby repealed (b).

(a) See "COURTS (NATIVE)," Vol. 1.

(b) This Act is made applicable to Zululand by Act No. 37, 1903, post, tit. "ZULULAND."

Act No. 25, 1902.

“To amend the Code of Native Law.”

[4th October, 1902.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

PART I.—Registration of Births and Deaths.

1. It shall be the duty of every kraal head to report, or cause to be reported, to the official witness, within three days, every birth and death occurring at his kraal or among any inmates thereof, giving such particulars as are required for registration.

Report by kraal head of births and deaths.

2. It shall be the duty of the official witness to report to the Magistrate, within thirty days, every birth and death occurring amongst the natives of the district in his charge. Such report shall give all the particulars necessary for registration.

Report by official witness to Magistrate.

3. The official witness shall be entitled to be paid by the Magistrate a fee of one shilling for each birth or death reported by him.

Fee to official witness.

4. A Register of births and a Register of deaths of natives shall be kept in the office of the Magistrate in such manner and with such particulars as shall be prescribed by the regulations.

Registers.

At the close of each year the Registers shall be sent to the Secretary for Native Affairs, and shall be filed in his office.

5. The Governor in Council may from time to time make regulations for all matters necessary for giving effect to this Act.

Regulations.

Such regulations may, amongst other things, prescribe the mode of reporting and registering births and deaths amongst natives not living in kraals, or make provision for any special case not expressly provided for by this Act.

6. Any official witness, kraal head, or other person who shall disregard his duties under this Act or the regulations shall be liable to a fine not exceeding Ten Pounds Sterling.

Penalties for disregard of duty.

7. Nothing in this Act shall be deemed to affect the provisions of Law No. 16, 1867, or of Act No. 5, 1896.

Saving of other Laws.

PART II.—Reporting Crime.

8. It shall be the duty of every kraal head to report immediately and with all speed to his Chief, or, if the Chief resides in another Magisterial Division, to the District Headman, the

Report of murders, sudden deaths and serious crimes.

Act 25, 1902. occurrence of any murder or sudden death or any death under suspicious circumstances, or any serious crime taking place at his kraal or amongst its inmates; and the Chief or District Headman receiving the report shall at once report the same to the Magistrate with all speed.

The neglect of any duty under this section shall be an offence.

Joint construction of Laws.

9. This Act and Law No. 19, 1891, and the Acts amending the said Law, shall be read and construed together as one Act.

Act No. 47, 1903.

“To amend the Code of Native Law.”

[5th December, 1903.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Fines for combining to suppress evidence, or for passive resistance to constituted authority.

1. When any homicide, assault, or other injury to person or property, or any theft, has occurred, and it is shown to the satisfaction of the Supreme Chief that the same was caused by Natives, and if there is reason to believe that there is a combination among any tribe or community of Natives to suppress evidence material to the trial of such offence, or to conceal the perpetrator thereof, or by passive or other resistance to constituted authority to encourage the repetition of such offence, it shall be lawful for the Supreme Chief to impose fines not exceeding Twenty Pounds Sterling each upon all or any of the adult male members of such tribe or community.

Liability of natives taking part in unlawful armed assemblies.

2. Any Native taking part in an assembly of armed men held without the authority of the Supreme Chief, or who shall directly or indirectly promote or assist any such assembly, shall be guilty of an offence punishable (a) the same way as other offences against Law No. 19, 1891, whether or not such assembly is followed by a breach of the peace or other crime.

Fines for combining to suppress names of participators in such armed assemblies.

3. When any such assembly has taken place, and it is shown to the satisfaction of the Supreme Chief that there is a combination among the members of any tribe, or between the members of different tribes, to suppress the names of those who took part in or promoted or otherwise assisted in such assembly,

(a) The word “in” appears to have been omitted here.

or to conceal or to shield any such persons from justice, it shall be lawful for the Supreme Chief to impose fines not exceeding Twenty Pounds Sterling each upon all or any of the adult male members of any such tribe.

Act 47, 1903.

4. Any fine imposed by the Supreme Chief under this Act may be enforced under the authority of an order signed on behalf of the Supreme Chief by the Secretary for Native Affairs specifying the fines and the persons by whom the same are payable.

Enforcement of Fines.

5. Every such order, or a copy thereof certified by the Under Secretary for Native Affairs, or by a Magistrate or Commissioned Officer of the Natal Police, shall have effect as if it were a warrant for the execution of a fine imposed in a criminal case, and it may be executed and levy made thereon by any person to whom it is addressed, or by the Sheriff or Bailiff of the Native High Court, or Messenger of a Magistrate's Court, or by their respective deputies, or by any police constable or other person thereto instructed in writing by a Magistrate or a Commissioned Officer of Police.

Execution and Levy.

6. If, by the return made by any person authorised to execute such order, it shall be made to appear to the Magistrate that any Native on whom a fine has been imposed has for fourteen days after demand made failed to pay and satisfy such fine, or to hand over to such person sufficient property whereon to levy in satisfaction of the fine, the Magistrate may issue his warrant to bring such Native before him, and, upon proof of lawful demand and of such default as aforesaid, he may sentence such Native to be imprisoned, with or without hard labour, for any term not exceeding six months, unless such fine be sooner paid.

Imprisonment for default of payment of fines.

7. The Supreme Chief may remit the whole or any part of any fine imposed under this Act.

Remission of fines.

8. Section 6 of Law No. 44, 1887, entitled "Law to amend the Native Administration Law, 1875," is hereby repealed, without prejudice to any proceedings taken or the execution of any fine imposed thereunder.

Repeal of Section 6 of Law 44, 1887.

9. The power given by Section 37 of the Code of Native Law to the Supreme Chief acting in conjunction with the Natal Native Trust to remove Natives from one part of the Colony to another, shall extend to the removal of Natives residing upon private lands (that is to say, all lands alienated from the Crown) in like manner as to Natives residing upon Crown or Location lands.

Removal of Natives; extension of Section 37 of Code.

10. This Act shall not come into operation unless and until the Governor shall, by proclamation in the *Natal Government*

Commencement of Act.

Act 47, 1903. *Gazette*, notify that it is His Majesty's pleasure not to disallow the same, and thereafter it shall come into operation on such date as the Governor may appoint by the same or any other proclamation (a).

Joint construction with Law 19, 1891.

11. This Act shall be read and construed together with Law No. 19, 1891.

(a) Came into operation on 1 Jan., 1904. See Procl. No. 150, 1903, in *Natal Government Gazette*, 29 Dec. 1903.

NATIVES (IN GENERAL).

[“ See “ ARMS, AMMUNITION, &c.” “ COURTS (NATIVE) ” ;
 “ CRIMINAL LAW ” ; “ INTOXICATING LIQUORS ” ; “ LABOUR
 TOUTS ” ; “ MARRIAGE (NATIVES) ” ; “ MASTER AND (NATIVE)
 SERVANTS ” ; “ NATIVE LAW ” ; “ VACCINATION.”]

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ACT No. 48, 1903 (“ To amend the Squatters’ Rent Law of 1884.”)	1
ACT No. 49, 1903 (“ The Mission Reserves Act, 1903.”)	2

Act No. 48, 1903.

“ To amend the Squatters’ Rent Law of 1884.”

[5th December, 1903.]

BE IT ENACTED by the King’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. From and after the date of the passing of this Act there shall be payable by Native Squatters on or in the occupation of Crown Lands within the Colony a rent of Two Pounds Sterling per Hut per annum for the use and occupation of such lands, in lieu of the rent of One Pound Sterling as provided for by Section 1 of Law No. 41, 1884.

Increase of Squatters’ rent on Crown Lands.

2. This Act and Law No. 41, 1884, shall not apply to the Province of Zululand unless and until the Governor in Council shall, by Proclamation, notify that the said Act and Law are extended to the said Province, and thereafter they shall take effect in the said Province on such date as shall be appointed by the Proclamation.

Act not to apply to Zululand unless specially extended.

3. This Act shall not come into operation unless and until the Governor shall, by Proclamation in the *Natal Government Gazette*, notify that it is His Majesty’s pleasure not to disallow the same, and thereafter it shall come into operation on such date as the Governor may appoint by the same or any other Proclamation (a).

Commencement.

(a) Came into operation on 1 Jan., 1904. See Procl. No. 150, 1903, in *Natal Government Gazette*, 29 Dec., 1903.

Act No. 49, 1903.

“To make better provision for the control and use of Mission Reserves.”

[25th December, 1903.]

WHEREAS certain Lands known as Mission Reserves have, from time to time, been granted upon Trusts for Natives, with the object that the same might be used for missionary work amongst the Natives by the ecclesiastical or missionary bodies named in the several deeds of grant :

AND WHEREAS difficulties have arisen in regard to the control and employment of the Mission Reserves, and it is expedient and also consonant to the wishes expressed on behalf of the ecclesiastical or missionary bodies aforesaid that the Trusts under which the Reserves are held should be transferred to and exercised by the Natal Native Trust, to be administered in accordance with the intention of the several deeds of grant, and for this purpose it is desirable to repeal and re-enact with amendments the Act No. 25 of 1895 :

BE IT THEREFORE enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. This Act may be known as “The Mission Reserves Act, 1903.”

2. Act No. 25, 1895, entitled Act “To regulate the use of Mission Reserves,” is hereby repealed.

3. The lands mentioned in the schedule of this Act, and any other lands to which this Act applies, are shortly referred to as “Mission Reserves” or “Reserves.”

4. The Natal Native Trust shall be the Trustees of all the Mission Reserves mentioned in the schedule of this Act, and all appointments of Trustees made by or pursuant to the deeds of grant of such Mission Reserves shall, from the date of the commencement of this Act, be revoked.

5. The Mission Reserves shall be kept for occupation solely by Natives, save in so far as any part thereof may be set apart or placed at disposal for the purposes of this Act ; and the Reserves shall be administered for the benefit of the Natives living thereon according to the intention of the several deeds by which the Reserves have been granted : Provided that the Natal Native

Title.

Repeal of Act
25, 1895.

Meaning of
“Mission
Reserves.”

Natal Native
Trust to be
Trustees of
Mission
Reserves.

Use and
Administra-
tion of
Reserves.

Trust shall have the right to grant temporary and conditional occupation of store sites, as well as prospecting and mining rights where such rights shall not interfere with the rights and well being of the Native residents and the work of the missionary body named in the deed of grant (a).

Act 49, 1903.

6. No person, society, or body, other than the ecclesiastical or missionary body named in the deed of grant, shall be allowed to establish any mission or undertake religious or educational work, or have any right to use or be upon any such Reserve, saving, however, the right of occupation by Natives according to the intention of this Act: Provided that nothing herein contained shall prevent the Natal Native Trust, or the Government, from establishing and carrying on any system of Native education and industrial training in such a manner as may be prescribed by the rules of the Department of Education relative to Native education.

Protection of Interests of Missionary Bodies, &c.

7. The Governor in Council shall be empowered to grant to the Natal Native Trust any lands which have heretofore been delimited as Native Mission Reserves for, but have not been transferred to, any ecclesiastical or missionary body.

Lands reserved but not transferred to a Missionary Body may be granted to Natal Native Trust.

Such lands shall be granted upon trust for Natives, in order that such ecclesiastical or missionary body may have a fixed population to labour amongst, and shall be administered according to the provisions of this Act in like manner, as far as may be, as the lands mentioned in the schedule of this Act.

8. Suitable sites for churches and schools for Natives, and other premises proper to be attached thereto, may be leased to or placed at the disposal of the Missionary bodies named in the deeds of grant upon a merely nominal rent. Any such leases shall not continue for more than twenty-one years, but may be renewed from time to time.

Leasing of Sites for Native Churches and Schools.

9. The Natal Native Trust may charge the Natives resident upon the Reserves such rent as they may determine, and may make charges for the supply and use of water which may be led, or of any other conveniences which may be provided by them for public purposes of the Reserve.

Payment of Rents by Native Residents.

10. One half of all rents and other moneys collected under this Act from the Natives living on any Reserve, or received for store sites, as well as one-quarter of all moneys received in respect of minerals under the provisions of Section 5 of this Act, shall be paid by the Natal Native Trust to the missionary body

One half of rents, &c., to be paid to Missionary Body named in Deed of Grant.

(a) See also Act No. 40, 1905, tit. "NATAL NATIVE TRUST."

Act 49, 1903. named in the deed of grant of the Reserve; and such moneys shall be applied to the purposes of Native education and industrial training upon any Reserve of any such missionary body in such manner as may be prescribed by the rules of the Department of Education relative to Native education: Provided, however, that such moneys may, with the consent and approval of the Natal Native Trust, be spent in defraying the salaries of industrial and other teachers, holding the requisite certificates of proficiency from the Department of Education of this Colony, engaged in the education and industrial training of Natives in schools provided and erected by such missionary body upon the glebe lands within or adjoining such Reserve or Reserves.

Balance of moneys to be used by Natal Native Trust for benefit of Reserves.

The remainder of such moneys shall, after repayment of any advance made or expense incurred by the Natal Native Trust, be applied to works of general utility and the benefit of the Reserve on which the money was collected.

Control of Reserves by Natal Native Trust.

11. Subject to the provisions of this Act, the Natal Native Trust shall have full and complete control of the Reserves, and may remove therefrom according to Law any Natives or other persons who have come upon the lands unlawfully, or whose residence there is, in the opinion of the said Trust, prejudicial to the interests of the Reserve: Provided that in the exercise of the powers conferred by this Act, and in interpreting the terms of the deeds of grants of the Reserves, just and impartial consideration shall be given to any representations which may be made on behalf of the missionary bodies.

Setting apart of portions of Reserves for Native converts.

12. Any Reserve, or any portion of a Reserve, may be set apart by the Governor in Council for exclusive occupation by Natives who are converts from heathendom.

Any rules made by the Governor in Council as hereinafter provided may be made specially or exclusively applicable to portions of a Reserve set apart under this section, and such special rules may also prohibit all Native customs and heathen rites and ceremonies inconsistent with the tenets of the religious body referred to in the deed of grant, and may give to such Natives such a measure of local management of the affairs of the Special Reserve as may be suited to their circumstances.

Exercise of powers by Native chiefs.

13. The Governor may decide what powers, if any, are to be exercised by Native Chiefs in Mission Reserves.

Reserves to come within meaning of Section 37, Law 19, 1891.

14. Each Mission Reserve shall be deemed to be a part of the Colony within the meaning of Section 37 of Law No. 19 of 1891, from which the Supreme Chief, acting in conjunction with the Natal Native Trust, may remove any tribe, or portion of a tribe, or Native.

15. The Governor in Council may from time to time make and alter rules to regulate the use and occupation of Mission Reserves, and for all purposes of this Act. Act 49, 1903.
Rules.

Such rules may amongst other things provide for :

- (a) The admission of Natives to the Reserve.
- (b) The lease and hire of land and the conditions to be imposed with regard thereto.
- (c) The appropriation of land for the purposes of cultivation, pasture and commonage.
- (d) All matters relating to roads, by-roads, fences, pounds, water-courses, woods and streams, and the use of water, wood, clay and stone.
- (e) The charges to be made for rent, the agistment of cattle, and for any other things for which a charge is authorised by this Act.
- (f) The preservation of health and observance of decency.
- (g) The maintenance of order and any other matter or thing necessary to be done or be prohibited in the interests of the people living in the Reserve.
- (h) The education and industrial training of children living on the Reserve.
- (i) For the preservation of game.

Any person who shall contravene a regulation under this Act, or who shall disobey or disregard any duty imposed thereby or any lawful order made by a person having authority under the regulations shall be guilty of an offence, and shall be liable to a fine not exceeding Ten Pounds (£10) Sterling, or to imprisonment with or without hard labour for a term not exceeding six months.

16. Section 7 of Act No. 40, 1896, is hereby repealed.

The powers given to the Governor in Council by Section 5 of the said Act to define boundaries of lands occupied by Natives may be exercised in Mission Reserves as in Locations. Boundaries
of Reserves.

17. Nothing in this Act contained shall in any way lessen the rights as Missionaries or (a) any Ministers of the religious denomination mentioned or referred to in the original grant of the Mission Reserve. Saving of
Rights.

(a) "Or" appears to be a misprint for "of."

Act 49, 1903.

Schedule.

SCHEDULE.

Mission Reserve.	Extent, Acres.	Missionary Body named in the Deed of Grant.	Date of Grant.
Umpumulo ...	12,000	Norwegian Mission in Natal	4 Nov., 1862.
Umlazi... ..	7,521	Church of England in Natal	"
Umtwalumi ...	12,922	American Board of Commissioners for Foreign Missions in Natal	"
	Or. 21p.		
Mapumulo ...	8,196	Ditto	"
Etembeni ...	5,939	Hanoverian Missionary Society... ..	"
Umsindusi ...	5,595	American Board of Commissioners for Foreign Missions in Natal	"
	3r. 12p.		
Inanda... ..	11,500	Ditto	10 July, 1873.
Itafamasi ...	5,500	Ditto	20 July, 1883.
Table Mountain	5,623	Ditto	15 June, 1875.
	1r. 14p.		
Isidumbeni ...	5,500	Ditto	10 July, 1873.
Charlottedale ...	6,207	Ditto	18 Nov., 1862.
	(Umvoti).		
Amahlongwa ...	6,965	Ditto	4 Nov., 1862.
Ifumi or Imfumi	7,498	Ditto	"
Amanzimtote ...	8,077	Ditto	"
Ifafa	6,209	Ditto	"
Indaleni ...	6,164	Wesleyan Missionary Society... ..	8 Aug., 1865.
St. Michael's ...	6,300	Roman Catholic Mis- sions	3 May, 1887.

NATURALIZATION.

[See "ALIENS."]

NAVAL SERVICE.

Act No. 5, 1903.

“To provide for a contribution to His Majesty’s Navy.”

[8th July, 1903.]

WHEREAS it is desirable to recognise the importance of sea power in the control which it gives over the sea communications, and the necessity of a single Navy under one authority, by which alone concerted action can be assured :

BE IT THEREFORE ENACTED by the King’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. In this Act the expression “the Admiralty” shall mean Interpretation
the Lord High Admiral of the United Kingdom for the time being, or the Commissioners for the time being for executing the office of Lord High Admiral of the United Kingdom.

2. From and after the taking effect of this Act, there shall be paid annually to the Admiralty, or such person as they may be pleased to appoint in that behalf, and in such manner as they may be pleased to direct, the sum of Thirty-five thousand pounds sterling (£35,000) out of the public revenue of this Colony as a contribution towards the annual expenditure by the Imperial Government in connection with His Majesty’s Naval Service. Contribution to Navy.

3. This Act may be cited for all purposes as “The Navy Short Title.
Contribution Act, 1903.”

NEGLIGENCE.

[See Act No. 3, 1905, tit. “RAILWAYS”; see also Act No. 9, 1902, sec. 13, tit. “FENCES.”]

NEGOTIABLE INSTRUMENTS (INDIANS).

[See “CONTRACTS.”]

NEWCASTLE CORPORATION.

Act No. 19, 1903.

“To enable the Town Council of the Borough of Newcastle to borrow £10,000, and to extend the water supply of the Borough of Newcastle.”

[7th September, 1903.]

WHEREAS it is expedient to enable the Town Council of the Borough of Newcastle, in the Colony of Natal, to borrow £10,000 to defray the cost of extending and augmenting the supply of water within the said Borough, and for that purpose to take water from the River Incandu :

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

Loan of
£10,000 author-
ised.

1. The Town Council of the Borough of Newcastle, in the Colony of Natal, is authorised to borrow up to but not exceeding the total sum of Ten Thousand Pounds (£10,000) Sterling, to be expended within the said Borough for the purpose of paying off existing temporary advances due by the said Town Council and defraying the cost of extending the water works and augmenting the water supply of the said Borough.

Stock.

2. The said Town Council is authorised to issue Stock to be called “The Newcastle Corporation Stock” (hereinafter referred to by the word “Stock”) for the moneys borrowed under this Act, payable within fifty years after the date of issue, and such Stock shall bear interest at a rate not exceeding five per cent. per annum.

Stock a charge
upon rates, &c.

3. The said Stock and interest thereon shall be a charge on the rates, rents, and general revenue of the said Borough.

Incorporation
former Act.

4. Sections 4 to 13 inclusive of “The Newcastle Corporation Loan Act, 1899,” shall be deemed to be incorporated with and form part of this Act.

Taking and
diverting of
water author-
ised.

5. The said Town Council is authorised to take and divert such water as may be necessary from the River Incandu, in the Division of Newcastle, at or near Sub-division H of the farm Lennoxton in the said Division, the property of the said Town Council, as shewn on the plan filed with the Clerk of the Legislative Assembly, and to dam the said river and pump and lead the said water through pipes and conduits over Lot B of Sub-division A of the said farm Lennoxton in terms of a Deed of Servitude in favour of the said Town Council, dated the 30th

day of August, 1902, and registered in the Registrar of Deeds Office, Natal, on the 12th day of September, 1902, to Sub-division Reservoir of the farm Boschhoek, in the said Division of Newcastle, also the property of the said Town Council, and thence along the main road to the Borough of Newcastle, all as shewn on the said plan; and to make, erect and maintain all necessary reservoirs, filter beds, pumping stations and other works on the said lands, or on other lands, the property of the said Town Council, and the said Town Council is empowered to do and perform all such further acts, matters and things as may be necessary to carry out the objects of this Act. **Act 19, 1903.**

6. The surface of the said main road shall not be broken or pipes laid thereon by the said Town Council without the consent of the Colonial Government, who may impose such conditions on the said Town Council as may be deemed necessary in the public interest. **Roads not to be broken without Government's consent.**

7. If the taking, impounding, diversion, appropriation, or conveyance of water under the authority of this Act shall deprive any person of any water or right of water which he may at any time of such taking, impounding, diversion, appropriation or conveyance be possessed of or be entitled to possess, and shall thereby or otherwise cause damage to such person or to his property, he shall be entitled to compensation to be settled in case of difference as if the taking, impounding, diversion, appropriation or conveyance of water constituted damage to land within the meaning of the 65th Section of the "Lands Clauses Consolidation Law, 1872." **Compensation for damage.**

8. If any person shall divert or pollute the water of the River Incandu above the point of diversion authorised by this Act, or shall pollute any water taken or diverted from the said river under the authority of this Act, or shall obstruct any person in the discharge of his duty in connection with the water works hereby authorised, or shall wilfully do any damage to property connected with the said water works, such person, on conviction thereof before the Magistrate having jurisdiction, shall be liable to a penalty for each offence not exceeding £20, to be paid to the funds of the said Town Council, or, in default of payment, to imprisonment, with or without hard labour for a period not exceeding three months, and any person charged with contravening this Act may be prosecuted by any officer appointed in that behalf by the said Town Council. **Offences and penalties.**

9. This Act may be cited as "The Newcastle Corporation Loan and Water Works Act, 1903." **Short title.**

NORTHERN DISTRICTS.

Act No. 1, 1903.

“To provide for the annexation to the Colony of Natal of certain Territories now forming a part of the Transvaal Colony.”

[24th January, 1903.]

WHEREAS it is the gracious pleasure of His Majesty the King that the Territories hereinafter mentioned shall be annexed to the Colony of Natal :

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

Commence-
ment.

1. This Act shall not take effect unless and until the Governor shall notify by Proclamation 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 the same or any other Proclamation (a).

Short title.

2. This Act may be known as “The Northern Districts Annexation Act, 1902.”

Annexation of
Territories to
Natal.

3. From and after the taking effect of this Act the under-mentioned Territories, situated Northwards of the Colony of Natal, now forming a part of the Transvaal Colony, shall be annexed to and shall thenceforth form a part of the Colony of Natal, that is to say :—

The District of Vryheid,

The District of Utrecht,

A portion of the District of Wakkerstroom lying south of a line drawn from the North-eastern corner of Natal, East of Volksrust, to the head waters of the Pongolo River, and thence along that river to the border of the Utrecht District.

The aforesaid Territories are in this Act shortly referred to as the “Northern Districts.”

Boundaries,
how to be
determined.

4. The exact extent and boundaries of the territories forming the Northern Districts shall be determined by a Commission constituted and appointed in such manner as may be determined by His Majesty's Government. The boundaries so ascertained

(a) See Order in Council, Letters Patent, and Procl. No. 7, 1903, in *Natal Government Gazette*, 27th Jan., 1903.

shall, as soon as conveniently may be, be published by Proclamation of His Excellency the Governor, and shall thereafter be the boundaries of the said Districts (*a*).

Act 1, 1903.

5. Laws for the peace, order, and good government of the Northern Districts may be made by His Majesty with the advice and consent of the Parliament of Natal as provided in the Constitution Act of 1893 of the Colony of Natal (*b*).

Laws may be made for the Northern Districts.

6. Save as may be inconsistent with this Act, or with any Proclamation thereunder, the system, code, or body of laws commonly called the Roman-Dutch Law, as established in this Colony by Ordinance No. 12, 1845, shall be the common law of the Northern Districts.

Roman-Dutch Law to be the common Law.

The Ordinances, Laws, and Acts of the Colony of Natal (*c*) in force at the time of annexation (*d*) shall, upon such annexation, apply to and be of force in the Northern Districts, except as may be otherwise provided by this Act, or by any Proclamation thereunder, and all laws theretofore in force in the said districts shall thereupon cease and determine :

Application of Laws of Natal.

Provided always that, except in so far as may be inconsistent with the laws of Natal, the provisions of this section shall not affect any right of action, or any other rights or obligations existing, or the liability to trial and punishment for any crime or offence committed, prior to the taking effect of this Act, or the validity of any judgment, order, or sentence of any Court, or the carrying out thereof, but provided also that the prosecution, enforcement, or carrying out of any such matters as aforesaid shall be effected by such means and in such manner as are allowed by the laws of Natal, or by any Proclamation or arrangement made in terms of this Act.

Saving of existing rights and liabilities

7. Until other provision shall be made by Act of Parliament, it shall be lawful for the Governor in Council by Proclamation to suspend the action or to modify the operation of any laws of Natal in their application to the Northern Districts, or to preserve in force any special laws of the Transvaal Colony as heretofore administered in the said Districts.

Temporary provision for modifying the Law in the Northern Districts.

Any such Proclamation may be repealed or altered by a like proclamation.

No such Proclamation shall be issued after the commencement of the next ordinary annual session of Parliament following

(*a*) See Procl. No. 8, 1903.

in force) are made applicable to the Northern Districts by Act No. 3, 1903, tit. "PARLIAMENT," post.

(*b*) See Act No. 14, 1893, tit. "PARLIAMENT," Vol. 2.

(*d*) The date of annexation is ascertained by reference to secs. 1 and 3, ante.

(*c*) The provisions of the Royal Charter of 15th July, 1856 (so far as they are

Act 1, 1903. the general cessation of hostilities, unless it shall be otherwise ordered by any Act, or approved by resolution of Parliament.

Regulations relating to public officers.

8. The Governor in Council may make any regulations necessary for defining the status and tenure of office of any officer of the public service of the Northern Districts whose services shall be retained after the annexation, and for the admission of any such officers to the Civil Service of Natal and to the advantages and obligations of the Acts relating thereto, saving in all respects as far as possible all existing rights and privileges, and so that the services of any such officer which would by the laws or regulations of the public service of the Transvaal Colony be reckoned for purposes of pension shall be reckoned as service for the purposes of pension under the laws of Natal.

Contributions towards superannuation.

No such officer, who shall before the annexation have acquired pension rights shall be required to contribute towards superannuation under the Civil Service Act, 1894, in respect of any services prior to the annexation, or in respect of any future services, unless he would by the laws in force in the said Districts before the annexation be required to contribute in respect of such future service.

Compensation for loss of office.

9. It shall be lawful for the Governor to pay out of the Consolidated Revenue Fund to all persons holding offices of profit under His Majesty in the Northern Districts at the taking effect of this Act, whose offices shall be abolished, or whose services the Governor may not require to retain, such compensation for loss of office as shall in each case be awarded by the Governor in conformity with the provisions of Law No. 3, 1872, as amended by Law No. 11, 1887 (*a*).

Franchise.

10. All persons living in the Northern Districts who, if in the Colony of Natal, would enjoy franchise rights, are hereby declared to be entitled thereto, but the exercise of such rights shall be postponed until the necessary provision shall have been made in that behalf by Parliament: Provided that a Bill for such purpose shall be submitted by the Governor to Parliament at its next ordinary annual session commencing after the general cessation of hostilities (*b*).

Annual licenses.

11. No person lawfully exercising any profession or carrying on any trade or business in the Northern Districts, for which profession, trade or business, at the time of the annexation, an annual license is required by the laws of Natal, shall be required to take out any such license before the first day of January, 1903.

Stamps on deeds.

Any deed executed or brought into use in the Northern

(*a*) See tit. "PENSIONS," Vol. 2.

(*b*) See Act No. 3, 1903, tit. "PARLIAMENT," post.

Districts before the annexation shall be exempted from the operation of the laws of Natal relating to stamps. **Act 1, 1903.**

12. All grants and deeds of title existing and lawfully in force in the Northern Districts at the time of the annexation shall remain in force and effect. **Grants and titles.**

13. The Governor in Council may make regulations for the record and registration of all instruments and deeds relating to property situated or to persons resident in the Northern Districts, which may have been registered in any public office of the Transvaal Colony, and for the transfer of such documents or copies thereof to the public offices of this Colony, and for the mode of authentication and proof thereof. **Records and registration.**

14. The Governor may enter into any convention or agreement with the Governor of the Transvaal Colony with respect to the continuation of any proceedings, civil or criminal, pending at the time of annexation, and for the trial and determination thereof either by the Courts of the Transvaal Colony or by those of the Colony of Natal, as also with reference to the records thereof, and the execution and enforcement of the judgments, decrees, orders, or sentences of the Courts heretofore exercising jurisdiction in the Northern Districts, whether the same shall have been pronounced before or subsequent to the annexation. **Conventions or agreements relative to legal proceedings.**

Any such convention or agreement which may have been entered into before the commencement of this Act shall be deemed to have been made under this Act.

15. The Supreme Court may make any rules necessary for giving effect to the provisions of any such convention or agreement, and for regulating the mode of proof, execution and enforcement of any judgment, decree, order or sentence according to the intention of such convention or agreement. **Supreme Court may make rules.**

16. The Supreme Court and all other Courts of Natal having jurisdiction in the Northern Districts shall respectively have jurisdiction for the continuance, trial, and determination of suits, prosecutions and other proceedings instituted in any Court of the Transvaal Colony before the annexation, but such jurisdiction shall be without prejudice to any jurisdiction which may be exercised by the Courts of the Transvaal Colony in terms of any such convention or agreement as is hereinbefore provided for. **Jurisdiction of Natal Courts.**

NUISANCES.

[See "PUBLIC HEALTH."]

OATHS.

Act No. 14, 1904.

“To provide for the appointment of Commissioners for Oaths.”

[8th July, 1904.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. The Governor may from time to time, by commission signed by him, appoint any fit and proper persons to be Commissioners for Oaths, and may revoke any such appointment.

2. A Commissioner for Oaths in Natal may, by virtue of his commission, administer in Natal any oath or take any affidavit for the purposes of any court or matter.

A Commissioner for Oaths appointed under this Act in any place out of Natal may by virtue of his commission administer any oath or take any affidavit for the purposes of any court or matter in Natal :

Provided that no Commissioner shall act as such in any proceedings in which he is solicitor to any of the parties to the proceeding, or clerk to any such solicitor, or in which he is interested.

3. Every person who, being an officer of or performing duties in relation to any court, is for the time being so authorised by a judge of the court, or by or in pursuance of any rules or orders regulating the procedure of the court, and every person directed to take an examination in any cause or matter in the Supreme Court, shall have authority to administer any oath or take any affidavit required for any purpose connected with his duties.

4. Any oath or affidavit required for the purpose of any court or matter in Natal or for the purpose of the registration of any instrument in Natal may be taken or made in any place out of Natal before any person having authority to administer an oath in that place.

In the case of a person having such authority by virtue of a commission under this Act, judicial and official notice shall be taken of his seal or signature affixed, impressed or subscribed to or on any such oath or affidavit.

5. Every Commissioner before whom any oath or affidavit is taken or made under this Act shall state truly in the jurat or

Commissioners to be appointed by Governor.

Commission to apply to any Court or matter in Natal.

Powers given to Officers of Courts.

Oaths or Affidavits sworn in places outside Natal.

Place and date of Oath to be stated.

attestation at what place and on what date the oath or affidavit is taken or made. **Act 14, 1904.**

6. Whoever wilfully and corruptly swears falsely in any oath or affidavit taken or made in accordance with the provisions of this Act, shall be guilty of perjury in every case where if he had so sworn in a judicial proceeding before a court of competent jurisdiction he would be guilty of perjury. **False Oath to be perjury.**

7. Whoever forges, counterfeits, or fraudulently alters the seal or signature of any person authorised by or under this Act to administer an oath, or tenders in evidence, or otherwise uses any affidavit having any seal or signature so forged or counterfeited or fraudulently altered, knowing the same to be forged, counterfeited, or fraudulently altered, shall be guilty of the crime of forgery. **Forgery of signatures.**

8. A Commissioner appointed under this Act, and any Justice of the Peace, shall be entitled to charge and receive a fee of One Shilling Sterling for every oath or affidavit administered or taken by him: Provided that if such Commissioner or Justice of the Peace shall be an officer of the public service the fee shall be paid over by him to the general revenue. **Fees.**

9. In this Act, unless the context otherwise requires:— **Definitions.**

“Oath” includes affirmation and declaration:

“Affidavit” includes affirmation, statutory or other declaration, acknowledgment, examination and attestation or protestation of honour:

“Swear” includes affirm, declare and protest.

10. Where by any Law or Act an oath is required to be taken or an affidavit or declaration made before a Justice of the Peace, such oath, affidavit, or declaration may be taken or made before a Commissioner appointed by this Act. **Oaths may be sworn before a Commissioner instead of a Justice of the Peace.**

OSTRICHES.

Act No. 40, 1901.

“For the protection of property in Ostriches and Ostrich Feathers.”

[26th August, 1901.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Ostriches to be subject of property as domestic animals are.

1. Ostriches shall be the subject of property and ownership in the same manner in all respects as domestic animals, and their ownership shall not be lost merely by reason of their having strayed, or being temporarily out of the possession or control of their owners.

Wild nature of ostriches no defence to criminal charge or civil action.

2. Upon any charge of theft of ostriches or of ostrich feathers, or of malicious injury to or killing of ostriches or of any other offence in respect of ostriches or ostrich feathers, or in any action in which the property in ostriches or ostrich feathers is in question, no exception or defence shall be competent on the ground of any presumption that they are ownerless by reason of the wild nature of ostriches.

Registration of brands.

3. Every owner of ostriches shall, with one month, after this Act comes into operation, or within one month after becoming possessed of ostriches, as the case may be, register at the Office of the Magistrate of the Division in which the ostriches are kept, a description of the brands which he uses or intends to use for branding his ostriches.

No two persons shall be allowed to register the same brand or brands so similar as to be likely to be mistaken for each other.

Ostriches to be branded.

4. Every owner of ostriches shall cause all ostriches (a) above the age of twelve months to be branded with his registered brand on the thigh (b).

Penalty for failure to brand.

5. Any owner who shall fail to register his brand or to brand his ostriches and keep them well branded shall be liable to a fine not exceeding Ten Pounds: Provided that there shall be an interval of not less than two months between any two convictions.

(a) Some words of qualification would seem to have been omitted here, e.g., “belonging to him,” or “in his possession or control.”

(b) As to fraudulent marking or branding of ostriches, see tit. “BRANDS,” Vol. 1.

6. If any ostrich is branded with the registered brand used by an owner of ostriches, such brand shall in any civil action or criminal proceeding, be *prima facie* evidence that the ostrich belongs to the person whose brand it bears; and in a criminal case, upon proof of the theft of an ostrich so branded, the burden shall rest upon an accused person in whose possession such ostrich is found, of proving that the same was lawfully or innocently in his possession.

Act 40, 1901.

Evidence of ownership founded on brand.

Burden of proof in criminal cases.

OYSTERS.

[See "FISH."]

PARLIAMENT.

[See "NORTHERN DISTRICTS."]

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Act No. 3, 1903.

"To provide for the Parliamentary Representation of the Northern Districts of Natal."

[22nd June, 1903.]

WHEREAS by the Northern Districts Annexation Act, 1902, it is amongst other things provided that all persons living in the Northern Districts who, if in the Colony of Natal, would enjoy franchise rights, shall be entitled thereto, but that the exercise of such rights shall be postponed until the necessary provision shall have been made in that behalf by Parliament, and that a Bill for such purpose shall be submitted to Parliament at its next ordinary Session :

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Short title :
interpretation.

1. This Act shall be known as "The Northern Districts Parliamentary Representation Act, 1903."

The expression "Northern Districts" as used in this Act shall mean the territories annexed to Natal in terms of the said Northern Districts Annexation Act, 1902 (*a*).

Number of
Members of
Legislative
Council.

2. The Legislative Council of Natal shall consist of thirteen members in place of twelve members as provided by Act No. 10, 1898 (*b*).

Northern Dis-
tricts to be a
District
within Section
19 of Constitu-
tion Act.

3. The Northern Districts shall be a district within the meaning of Section 19 of the Constitution Act, 1893, and one member of the Legislative Council shall be summoned therefrom :

(*a*) See tit. "NORTHERN DISTRICTS," ante.

(*b*) See tit. "PARLIAMENT," p. 45, Vol. 2.

Provided that such member shall not be summoned before the first day of October, 1903.

Act 3, 1903.

4. The Legislative Assembly of Natal shall consist of forty-three members in place of thirty-nine members as provided by Act No. 10, 1898.

Number of Members of Legislative Assembly.

5. The Northern Districts shall be divided into two Electoral Districts, called the Vryheid Electoral District and the Utrecht Electoral District, respectively, and bounded as set forth in the Schedule to this Act, and two members of the Legislative Assembly shall be chosen for each of the said districts: Provided that no such member shall be chosen before the first day of October, 1903.

Sub-division of Northern Districts into two Electoral Districts.

6. For the purpose of summoning a member of the Legislative Council and of the election of members of the Legislative Assembly, the districts created by this Act shall be treated and considered as if such members had been heretofore summoned and returned to the Legislative Council and Legislative Assembly, respectively, and as if their seats had become vacant, and the like proceedings shall *mutatis mutandis* be taken for filling such vacancies as would in such case be taken to fill the same.

Summoning of Members of Legislative Council, and Election of Members of Legislative Assembly from Northern Districts.

7. The provisions of the Royal Charter of 15th July, 1856, in so far as they may be in force in the Colony of Natal, and all Laws and Acts of Natal (a) relating to the registration and qualification (b) of voters, the making out of Voters' Lists and the proceedings thereon, the qualification, summoning, nomination, and election of members of the Legislative Council and Legislative Assembly, respectively, and all matters connected therewith, shall be in force in and apply, *mutatis mutandis* to the Northern Districts.

Application of the Charter of 15th July, 1856

8. The Voters' Rolls for the electoral districts of the Northern Districts shall be brought into use on the first day of September, 1903.

Voters' Rolls

(a) Act No. 1, 1903. sec. 6 (tit. "NORTHERN DISTRICTS," ante), applies to the Northern Districts all "ordinances, laws,

and acts of the Colony of Natal in force at the time of annexation."

(b) See Act No. 14, 1906, post, conferring special franchise.

Act 3, 1903.

SCHEDULE.

Schedule.

Electoral Districts.	Boundaries.
1. Vryheid Electoral District.	The Pongolo River, from the confluence of the Pivaan River eastwards to the boundary of the Province of Zululand; thence in a southerly and south-westerly direction along the boundary of the Province of Zululand to the Umhlatuzi River; thence in a northerly direction along the boundary of the Province of Zululand to the confluence of the Umdhlenevu Spruit with the Blood River; thence northwards along the Blood River to the southern point of the farm Lynspruit, No. 181; thence along the south-eastern and eastern boundaries of Lynspruit, No. 181; thence along the north-western boundary of Lynspruit, No. 181; thence along the eastern boundary of Weltevreden, No. 122; thence along the south-eastern boundary of Holkrantz, No. 123; thence along the southern boundary of Schuinhoek, No. 128; thence along the western boundaries of Witumveloos, No. 57, and Jagtpad; thence along the southern and eastern boundaries of Jagtpad; thence along the eastern boundaries of Witumveloos, No. 57, Onverwacht, No. 63, Schurveberg Hoek, No. 30, Pivaan, No. 45, and Nooitgedacht, No. 33; thence along the southern boundary of Nooitgedacht, No. 33, to the Pivaan River; thence along the Pivaan River to its confluence with the Pongolo River.
2. Utrecht Electoral District.	The Pongolo River, from the confluence of the Pivaan River westwards to the confluence of the Intombi River; thence westwards along the northern border of this Colony to the boundary of Klip River County; thence in a southerly direction along the Buffalo River to the confluence of the Blood River; thence in a northerly direction along the Blood River to the confluence of the Umdhlenevu Spruit; thence in a northerly and north-easterly direction along the boundary of the Vryheid District to the confluence of the Pivaan and Pongolo Rivers.

Act No. 25, 1903.

“To amend the Election Petitions Act, 1895,”

[13th September, 1903.]

WHEREAS it is expedient to amend the seventh section of the “Election Petitions Act, 1895.”

BE IT THEREFORE ENACTED by the King’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. The Judge selected for the trial of Election Petitions shall be nominated yearly by the Supreme Court at such time in each year as the Court may see fit; and the seventh section of the “Election Petitions Act, 1895,” is hereby amended accordingly, without prejudice to the nomination for the current year.

Nomination of
Election Petitions
Judge.

Act No. 14, 1906.

“To amend the law relating to the Franchise.”

[13th July, 1906.]

BE IT ENACTED by the King’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. Any person who at the date of the annexation (a) of the territories known as the Northern Districts of Natal, was enrolled upon the latest list of burghers of the late South African Republic, and entitled to vote for members of the First Volksraad thereof, and who continues to reside in any part of the Northern Districts, and who would otherwise be disqualified as an elector under the Charter of Natal on the sole ground of his not possessing the qualifications required by the 11th clause of the said Charter or by any Law or Act amending the same, shall be entitled to be registered as a voter in the electoral district of the Northern Territories in which he resides at the time when the Voters Roll for such District shall be prepared, notwithstanding that such person may not possess the qualifications necessary to entitle him to be registered as a voter in terms of the law.

Special franchise
conferred
on certain
persons in the
Northern
Districts.

(a) See Act No. 1, 1903, tit. “NORTHERN DISTRICTS.”

Act 14, 1906. If any such person shall hereafter become registered as a voter in virtue of the 11th clause of the said Charter, or of any amendments thereof, the special franchise conferred upon him by this Act shall cease.

Joint construction.

2. This Act shall be construed together with the Royal Letters Patent of 15th July, 1856, known as the Charter of Natal.

PARTNERSHIPS.

[See “ FIRMS (REGISTRATION).”]

PAUPERS.

[See “ DESTITUTE PERSONS ”; “ IMMIGRATION (RESTRICTED).”]

PENSIONS.

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Act No. 21, 1901.

"To provide for the Pension of the Honourable Sir Michael Henry Gallwey, K.C.M.G., Chief Justice of Natal."

[19th August, 1901.]

WHEREAS by Section 30 of the Supreme Court Act, 1896, it is provided that the maximum pension payable to a Judge of the Supreme Court shall be two-thirds of the salary of such Judge :

AND WHEREAS it is further provided by the said section that the present Chief Justice of Natal shall be deemed to have served the full judicial period of fifteen years, entitling him to be paid the maximum pension of a Judge :

AND WHEREAS the long and honourable service of the said Chief Justice in the offices of Attorney-General and Chief Justice make it fitting that some further and special provision should be made to recognise such service upon his retirement from office :

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. Notwithstanding anything contained in Section 30 of the Supreme Court Act, 1896, there shall be paid to the Honourable Sir Michael Henry Gallwey, K.C.M.G., Chief Justice of Natal, upon his retirement from office, a pension of One Thousand Five Hundred Pounds Sterling (£1,500) per annum, payable monthly.

Act No. 6, 1902.

"To make special provision regarding the pension to be paid to Robert Russell, Superintendent of Education, upon his retirement from the Public Service."

[2nd May, 1902.]

BE IT ENACTED by the King's Most Excellent Majesty, by

Act 6, 1902. and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. The pension payable to Robert Russell, Superintendent of Education, whenever he may retire from the Public Service of the Colony, shall be at the rate of Seven Hundred and Fifty Pounds Sterling per annum, payable monthly.

Act No. 16, 1902.

“To amend the Pension Laws.”

[26th May, 1902.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Repeal.

1. Act No. 26, 1897, entitled an Act “To amend the Pension Law No. 22 of 1874,” is hereby repealed.

Officer over 55 years of age may be required to retire.

2. It shall be lawful for the Governor in Council to require any officer of the Civil Service to retire from the public service at any time after he shall have attained the age of fifty-five years, upon a pension calculated in terms of the Pensions Law, 1874, and in such case the limit of ten years appointed by Section 3 of the said Law shall not apply to such officer.

Certain officers may retire after attaining 55 years of age.

3. Any officer of the Civil Service who shall have attained the age of fifty-five years, and who shall have served for a period of not less than thirty years (only such service being reckoned as can be counted for the purpose of pension) may retire from the public service upon a pension calculated according to the Pensions Law, 1874. In the case of officers of the Civil Service who received their first appointments in consideration of special professional qualifications, the term of service required as aforesaid shall be twenty, in place of thirty, years.

Any woman may so retire.

Any woman on the fixed establishment who shall have served as aforesaid for a period of not less than ten years shall, upon attaining the age of fifty-five years, be entitled to retire upon a pension calculated according to the Pensions Law, 1874.

Compulsory retirement at 65 years

4. Every officer of the Civil Service, and every person coming within the provisions of the Pensions Law, 1874, shall be required to retire from the public service upon attaining the age of sixty-five years.

Exceptions.

This section shall not apply to the Judges of the Supreme Court or of the Native High Court.

Act No. 20, 1904.

“To make special provision with regard to the salary and pension payable to Arderne Hulley, lately a Magistrate in the Public Service of the Colony.”

[23rd July, 1904.]

WHEREAS Arderne Hulley was on the 24th day of October, 1893, appointed as a Resident Magistrate in the Territory of Zululand and as an officer of the permanent public service thereof:

AND WHEREAS by the Zululand Annexation Act, 1897, the said Territory was annexed to the Colony of Natal under the title of the Province of Zululand, and it was by the said Act amongst other things provided that all existing rights of officers of the public service of the said Territory should be saved, and that service in Zululand should for the purposes of pension be deemed to have been service in Natal:

AND WHEREAS the said Arderne Hulley attained the age of 65 years on the 23rd day of September, 1902, and was therefore liable in terms of Act No. 16, 1902, to be retired from the public service upon that date notwithstanding that he had not then completed the period of ten years' service necessary to entitle him to pension under Law No. 22, 1874:

AND WHEREAS the said Arderne Hulley continued to hold office as a Magistrate until the 23rd day of October, 1903, and it is expedient to exempt him from the operation of Act No. 16, 1902, in so far as may be necessary in order that the payment of his salary up to the 23rd day of October, 1903, may be made lawful and that he may be entitled to pension after that date:

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. Notwithstanding the provisions of Act No. 16, 1902, the said Arderne Hulley shall be deemed to have lawfully continued to hold office in the permanent public service of the Colony of Natal and as Magistrate of the District or Division of Emtongweni, in the Province of Zululand, till the 23rd day of October, 1903, and nothing in the said Act shall be deemed to have required that he should retire from the public service at any earlier date.

PIETERMARITZBURG CORPORATION.

[As to Public Health, see Act No. 44, 1901, sec. 28, tit.
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Act No. 23, 1901.

“To increase the Borrowing Powers of the Mayor and Councillors
of the City and Borough of Pietermaritzburg.”

[19th August, 1901.]

WHEREAS the Mayor and Councillors of the City and Borough of Pietermaritzburg are desirous of refunding to the Borough Improvement Loan Fund certain moneys utilised for the installation of an Electric Lighting System to a portion of the City and Borough of Pietermaritzburg, and of extending such Electric Lighting System within the City and Borough of Pietermaritzburg, at an estimated cost of One Hundred and Fifty Thousand Pounds (£150,000) Sterling :

BE IT THEREFORE ENACTED by the King’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Natal, as follows :—

Short title.

1. The short title of this Act shall be “The Pietermaritzburg Consolidated Stock Act, 1901.”

Loan authorised.

2. The Mayor and Councillors of the City and Borough of Pietermaritzburg are authorised to borrow up to, but not exceeding, a total sum of One Hundred and Fifty Thousand Pounds (£150,000) Sterling, to be used for the purpose of refunding to the Borough Improvement Loan Fund certain moneys utilised for the installation of an Electric Lighting System to a portion of the City and Borough of Pietermaritzburg, and of extending

such Electric Lighting System within the said City and Borough.

Act 23, 1901.

3. The Mayor and Councillors of the City and Borough of Pietermaritzburg shall, out of the first moneys borrowed under the authority of this Act, refund to the Borough Improvement Loan Fund the sum of £73,082 4s. 11d.

Refund to
Borough
Improvement
Loan Fund.

4. The revenue and profits derived from the Electric Lighting System shall be used and applied only in connection with that System, and in reducing the price of light to consumers.

Application of
income from
electric light-
ing system.

5. The Mayor and Councillors of the City and Borough of Pietermaritzburg are authorised to issue, in the manner provided by Law No. 20 of 1888, new consolidated stock for the moneys borrowed under this Act, and the Stock issued under this Act shall bear interest at a rate not exceeding four per cent. per annum, and shall be deemed to be Consolidated Stock within the meaning of the said Law No. 20 of 1888, and shall be a charge upon, and shall, with the interest thereon, be payable out of the rents, rates, and general revenue of the Borough in the same way as if the Stock issued under this Act had been issued under the said Law No. 20 of 1888.

Issue of Stock :
Interest ;
Charge upon
rents, rates,
and revenue of
Borough.

6. Nothing in this Act, and nothing done under the provisions of this Act, shall take away, abridge, or pre-judicially affect any right or interest, by way of priority or otherwise, of any person in or to the rates, rents, or general revenue of the City and Borough.

Saving of
rights.

Act No. 26, 1901.

“To authorise and empower the Mayor and Councillors of the City and Borough of Pietermaritzburg to transfer to themselves the remainder of the Public Outspan No. 3 in the said Borough, at present held by them in trust inalienable as an outspan or grazing ground for the use of travellers and the burgesses of the said Borough free from all trusts and servitudes at present affecting the same, and to declare the said piece of land to be a portion of the Town Lands of the said Borough.”

[19th August, 1901.]

WHEREAS by Deed of Transfer bearing date the 20th day of February, 1879, a certain portion of the Town Lands of the said Borough, in extent 127 acres 36.367 perches, being the remainder of that portion marked No. 3 on the general plan of

Act 26, 1901. the said City and Borough, has been reserved in favour of the Mayor and Councillors of the said City and Borough, and their successors in office, in trust inalienable as an outspan or grazing ground for the use of travellers and the burgesses of the said City :

AND WHEREAS the said piece of land is not now necessary for the purposes for which it was originally reserved :

AND WHEREAS the said Mayor and Councillors are desirous of transferring a certain portion of the said Outspan being Subdivision C, in extent $74\frac{3}{4}$ acres, more or less, free from all trusts and servitudes at present affecting the same, to themselves, as Trustees, for the purposes of a Public Park and Recreation Ground, in terms of Section 42 of Act No. 22, 1894, and any amendments thereof :

AND WHEREAS the said Mayor and Councillors are desirous of transferring the Remainder of the said Outspan No. 3, in extent 52 acres 1 rood 36·367 perches, more or less, to themselves, free from all trusts and servitudes affecting the same :

AND WHEREAS a plan of the said piece of land has been lodged in the Office of the Clerk of the Legislative Council, and in the Office of the Clerk of the Legislative Assembly :

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of Natal, as follows :—

Transfer of Sub C. of Outspan 3 to Trustees as a park or recreation ground.

1. It shall and may be lawful for the said Mayor and Councillors, with the consent in writing of the Governor, to transfer to themselves, as Trustees, for a Public Park and Recreation Ground, the beforementioned Subdivision C of Outspan No. 3, containing $74\frac{3}{4}$ acres, more or less, and bounded North-East by Pine Street, South-East by the Remainder of Outspan No. 3, South-West and West by the Town Watercourse and the Railway Line, North-West by Subdivision B of Outspan No. 3, free from all trusts and servitudes at present affecting the same. The said piece of land so to be transferred shall be reserved as a Public Park or Recreation Ground in terms of Section 42 of Act No. 22, 1894.

Exemption from transfer duty.

2. The Registrar of Deeds is hereby empowered to transfer the portion of land in the foregoing Section referred to, to the Mayor and Councillors of the said City and Borough, free of transfer duty thereon.

Transfer of remainder of Outspan to Borough as town lands.

3. It shall and may be lawful for the said Mayor and Councillors, with consent, in writing, of the Governor, to transfer to themselves the before-mentioned Remainder of Outspan No. 3, containing 52 acres 1 rood 36·367 perches, more or less, free from all trusts and servitudes affecting the same, and the said piece of

land so to be transferred shall form a portion of the Town Lands of the City and Borough of Pietermaritzburg. **Act 26, 1901.**

4. That the said Mayor and Councillors are hereby empowered to deviate the existing road over said Outspan No. 3, and known as the Mayor's Walk, which they were bound to make and maintain in terms of Section 4 of Act No. 30, 1895, by altering the starting point of said road to the head of Berg Street, instead of the head of Pietermaritz Street as at present, said road to run from Berg Street along the South-Eastern Boundary of the said Public Park, until it joins the existing Mayor's Walk, and to fence and maintain the said deviation in a like manner as prescribed by Section 4 of Law 30, 1895. **Deviation of Mayor's Walk.**

5. This Act shall commence and take effect from and after the promulgation thereof in the *Natal Government Gazette*, August 20, 1901. **Commencement.**

Act No. 8, 1902.

“To increasing the borrowing powers of the Mayor and Councillors of the City of Pietermaritzburg.”

[23rd May, 1902.]

WHEREAS the Mayor and Councillors of the City and Borough of Pietermaritzburg are desirous of paying off the balance of the cost of the erection of the New Town Hall Buildings, and of erecting a New Police Station, and a New Market Hall with Cold Storage Buildings, at an estimated cost of One Hundred Thousand Pounds (£100,000) Sterling:

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. The short title of this Act shall be “The Pietermaritzburg Consolidated Stock Act, 1902” (a). **Short title.**

2. The Mayor and Councillors of the City and Borough of Pietermaritzburg are authorised to borrow up to but not exceeding a total sum of One Hundred Thousand Pounds (£100,000) Sterling, to be used for the purpose of paying off the balance of the cost of the erection of the New Town Hall Buildings, for the erection of a New Police Station, and for the erection of a New Market Hall with Cold Storage Buildings, in accordance with the amounts approximately estimated in the Schedule to this Act. **Authority for and application of Loan.**

(a) See Acts Nos. 29, 1905, and 42, 1906, post.

Act 8, 1902.

Stock.

3. The Mayor and Councillors of the City and Borough of Pietermaritzburg are authorised to issue in the manner provided by Law No. 20 of 1888, new Consolidated Stock for the moneys borrowed under this Act, and the Stock issued under this Act shall bear interest at a rate not exceeding four per centum per annum, and shall be deemed to be Consolidated Stock within the meaning of the said Law No. 20 of 1888, and shall be a charge upon, and shall, with the interest thereon, be payable out of the rents, rates, and general revenue of the Borough in the same way as if the stock issued under this Act had been issued under the said Law No. 20 of 1888.

Interest.

Charge.

Saving of other claims.

4. Nothing in this Act, and nothing done under the provisions of this Act, shall take away, abridge, or prejudicially affect any right or interest by way of priority or otherwise, of any person in or to the rates, rents, or general revenue of the City and Borough.

SCHEDULE.

Balance of cost of erection of Town Hall Buildings ...	£63,500
Cost of erection of New Police Station	10,000
Cost of erection of New Market Hall, with Cold Storage Buildings	26,500
	<hr/>
	£100,000

Act No. 16, 1903.

“To authorise and empower the Mayor and Councillors of the City and Borough of Pietermaritzburg to transfer to themselves the Remainder of the Public Outspan No. 5, and the Public Outspan No. (5), in the said Borough, at present held by them in trust inalienable as outspans or grazing grounds for the use of travellers and the Burgesses of the said Borough, free from all trusts and servitudes at present affecting the same, and to declare the said pieces of land to be portions of the Town Lands of the said Borough.”

[18th August, 1903.]

WHEREAS by Deed of Transfer bearing date the 20th day of February, 1879, certain portions of the Town Lands of the said Borough, being the Remainder of Outspan No. 5, in extent 175 acres 23 perches, more or less, and Outspan No. (5), in extent 13 acres 1 rood 24 perches, more or less, marked on the General Plan of the said City and Borough, have been reserved in favour

of the Mayor and Councillors of the said City and Borough, and their successors in office, in trust inalienable, as outspans or grazing grounds for the use of travellers and the burgesses of the said City : **Act 16, 1903.**

AND WHEREAS the said pieces of land are not now necessary for the purposes for which they were originally reserved :

AND WHEREAS the said Mayor and Councillors are desirous of transferring the said Remainder of Outspan No. 5, and Outspan No. (5), in extent 175 acres 23 perches, more or less, and 13 acres 1 rood 24 perches, more or less, respectively, to themselves free from all trusts and servitudes affecting the same :

AND WHEREAS a Plan of the said pieces of land has been lodged in the Office of the Clerk of the Legislative Council and in the Office of the Clerk of the Legislative Assembly :

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. It shall and may be lawful for the said Mayor and Councillors, with the consent in writing of the Governor, to transfer to themselves the before-mentioned outspans, viz., the Remainder of Outspan No. 5, containing 175 acres 23 perches, more or less, and bounded north-east by Lots 82, 83, 83a, and 152, south-west by Thomson's Leasehold and Town Lands, otherwise by Town Lands and Lot 1 of said Outspan, and Outspan No. (5), containing 13 acres 1 rood 24 perches, more or less, bounded south-east by Outspan No. 5, south-west by Road, north-west and north-east by Town Lands and Lot 1, free from all trusts and servitudes affecting the same, and the said pieces of land so to be transferred shall form a portion of the Town Lands of the City and Borough of Pietermaritzburg.

Transfer of Remainder of Outspan No. 5, and Outspan No. (5) to the Corporation.

2. The Registrar of Deeds is hereby empowered to register transfer of the portions of land in the foregoing section referred to, to the Mayor and Councillors of the said City and Borough free of transfer duty thereon.

Exemption from Transfer Duty.

Act No. 18, 1903.

“To increase the Borrowing Powers of the Town Council of Pietermaritzburg.”

[7th September, 1903.]

WHEREAS it is expedient to increase the Borrowing Powers of the Borough of Pietermaritzburg for the purpose of enabling

Act 18, 1903. the Town Council thereof to provide a Main Sewerage System for the Borough, and to make loans where necessary to property owners for the purpose of making house connections with such system, paving the footpaths, constructing surface drainage, and macadamising the streets of Pietermaritzburg :

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of Natal, as follows:—

Short title.

1. The short title of this Act shall be "The Pietermaritzburg Consolidated Stock Act, 1903."

Loan of £490,000 authorised.

2. The Town Council of Pietermaritzburg are hereby authorised to borrow sums up to but not exceeding a total sum of Four Hundred and Ninety Thousand Pounds (£490,000) Sterling, to be used for the purposes, and in the proportions set forth in the schedule to this Act annexed.

Issue of stock interest charge upon rates, &c.

3. The Town Council are authorised to issue, in the manner provided by Law No. 20 of 1888, new Consolidated Stock for the moneys borrowed under this Act, and the stock issued under this Act shall bear interest at a rate not exceeding four per cent. per annum, and shall be deemed to be Consolidated Stock within the meaning of the said Law No. 20 of 1888, and shall be a charge upon, and shall, with the interest thereon, be payable out of the rents, rates and general revenue of the Borough in the same way as if the stock issued under this Act had been issued under the said Law No. 20 of 1888.

Saving of rights.

4. Nothing in this Act, and nothing done under the provisions of this Act, shall take away, abridge, or prejudicially affect any right or interest by way of priority or otherwise, of any person in or to the rates, rents or general revenue of the Borough.

SCHEDULE.

Main Sewerage Scheme	£200,000
For loans to property owners where necessary for the purpose of making house connections with the Main Sewerage System	90,000
Paving the footpaths, constructing surface drainage, and macadamising the streets of Pietermaritzburg	200,000
	<hr/>
	£490,000

Act No. 38, 1903.

“To authorise the Town Council of the Borough of Pietermaritzburg to provide a Main Sewerage Scheme for the Borough.”

[14th October, 1903.]

WHEREAS it is expedient to authorise the Town Council of the Borough of Pietermaritzburg to provide a Main Sewerage Scheme for the Borough :

BE IT THEREFORE ENACTED by the King’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Natal, as follows :—

1. The Town Council of the Borough of Pietermaritzburg is hereby authorised and empowered to carry out a Main Sewerage Scheme for the said Borough, and for that purpose to adopt the system known as the Water Carriage for Bacteriological Treatment.

Town Council of Pietermaritzburg empowered to carry out a Main Sewerage Scheme.

2. The works hereby authorised shall or may include the construction of outfall works upon Lot P.N. of Lot Q. of Lot 3, and upon Lot P. of Lot 3 of the Town Lands of Pietermaritzburg, consisting of Septic Tanks together with Bacteria Beds permitting of intermittent filtration, with Main Outfall Sewer near the Slaughter House, leading to the said Outfall Works along the southern bank of the Umsindusi River past Alice ; all necessary subsidiary sewers and intercepting sewers ; manholes, lampshafts, flushing chambers, and ventilating shafts.

Works authorised.

3. In cases where it may be necessary to use for the drainage system private roads, streets, or thoroughfares within the Borough, the same may be so used without compensation. Private roads, streets, or thoroughfares shall not include the land of a proprietor over which others have not a right-of-way.

Use of private roads and thoroughfares.

4. The Town Council may enforce the construction by every landlord within the drainage area of house drainage and connections with the public sewers, and may agree with any landlord to do the work at his expense, and to distribute the cost over a term of years, and in case of such agreement the cost and interest shall be a preferent charge over, and rank in priority before, any mortgage upon the landed property of such landlord benefited by such connection. No transfer of immovable property within the drainage area shall be passed by the Registrar of Deeds until a certificate shall have been produced to him under the hand of the Town Treasurer that all claims by the Corporation in respect of this Act have been satisfied.

Construction of drainage work by landlords enforceable ; or by agreement at their cost.

Act 38, 1903.

On failure by landlord to construct or agree for construction, Town Council may do the work and recover from landlord.

5. In case any landlord shall neglect or refuse to construct house drainage and connections with the public sewers, or to agree with the Town Council as in Section 4 of this Act provided, it shall be lawful for the Town Council to do the work, and to recover the cost thereof from the landlord: Provided no such work shall be begun until after the expiry of one month from the date of the service on the premises of a notice addressed to the landlord requiring him to do the work: And also provided that the property of the landlord benefited by such work shall be charged, as in Section 4 is mentioned, with the cost of such work.

Contribution by proprietors to cost of common sewer.

6. In any and every case where a sewer common to properties on either side of a private road or thoroughfare, shall be constructed by the Town Council, the cost of such sewer shall be borne by the proprietors in proportion to their frontages to the said street, road or thoroughfare: Provided that no such sewer shall be constructed by the Town Council in any case where the proprietors when called upon shall express their willingness to construct such sewer to the satisfaction of the Council, and shall commence the work within one month's notice to do so.

Application of Lands Clauses Consolidation Law, 1872, to lands required for drainage purposes.

7. In case it shall be considered necessary or desirable, or in case it shall be proposed by or in the interests of any proprietor that his house drainage should be conveyed to a public sewer through the property of another proprietor, the land or user of land may be taken under the provisions of the Lands Clauses Consolidation Law, 1872, which for the purposes of this section is incorporated with this Act, but in all such cases the Town Council, at meetings open to the public, shall take the place of arbitrators or other tribunal under that Law, and the decision of the Council shall be final, and not subject to review or appeal. The Council shall be entitled to make By-laws to regulate the proceedings before the Council, and in such By-laws may define under what circumstances parties may be allowed to appear before the Council other than personally.

And to lands required for sewerage scheme.

8. In any and every case where the Town Council may find it necessary to take lands or the user of lands for the purpose of the sewerage scheme hereby authorised, such land or user may be taken under the provisions of the "Lands Clauses Consolidation Law, 1872," which for the purposes of this section is incorporated with this Act.

By-laws.

9. The Town Council is authorised and empowered to make By-laws in the same way as By-laws are authorized by Law No. 19 of 1872, for the purpose of regulating the general sewerage system, and all house drainage, and of enforcing the use of

closets and urinals, and for rendering effectual and complete the system of sewerage hereby authorised, and for defining from time to time the drainage area, and the contravention of any By-law passed under this Act shall carry like penalties and punishments to those imposed by the said Law No. 19 of 1872.

Act 38, 1903.

Act No. 30, 1904.

“To increase the Borrowing Powers of the Town Council of Pietermaritzburg.”

[3rd August, 1904.]

WHEREAS it is expedient to increase the Borrowing Powers of the Borough of Pietermaritzburg for the purpose of enabling the Town Council thereof to complete the Scheme for Water Supply for the Borough :

BE IT THEREFORE ENACTED by the King’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of Natal, as follows :—

1. The short title of this Act shall be “The Pietermaritzburg Consolidated Stock Act, 1904.” Short title

2. The Town Council of Pietermaritzburg are hereby authorised to borrow sums up to but not exceeding a total sum of Two Hundred Thousand Pounds (£200,000) Sterling, to be used for the purpose set forth in the schedule to this Act annexed. Loan authorised.

3. The Town Council are authorised to issue, in the manner provided by Law No. 20, of 1888, new Consolidated Stock for the moneys borrowed under this Act, and the stock issued under this Act shall bear interest at a rate not exceeding four per cent. per annum, and shall be deemed to be Consolidated Stock within the meaning of the said Law No. 20 of 1888, and shall be a charge upon, and shall, with the interest thereon, be payable out of the rents, rates and general revenue of the Borough in the same way as if the stock issued under this Act had been issued under the said Law No. 20 of 1888. Issue of Stock : Charge upon rents, rates, and revenues of Borough.

4. The Town Council are authorised, pending the issue of such new Consolidated Stock, to borrow on overdraft such sums as may from time to time be arranged with their Bankers, and as are required for the purpose of such Scheme, in anticipation of the raising of the loan authorised by this Act, not exceeding at any one time in the whole the sum of One Hundred Thousand Authority to borrow £100,000 on overdraft.

Act 30, 1904. Pounds (£100,000) Sterling, in such manner as may be most convenient, on Special Resolution of the Town Council to be passed authorising the amount to be overdrawn, and shall repay the moneys so borrowed out of the principal sums to be raised under the provisions of this Act.

Authority to borrow £100,000 on Bills of Exchange and Promissory Notes.

5. The Town Council may further authorise and empower the Mayor for the time being to draw and negotiate Bills of Exchange and Promissory Notes up to the said extent of One Hundred Thousand Pounds (£100,000) Sterling in lieu of borrowing on overdraft from the Bank, as provided in the immediately preceding section. Such Bills shall be signed by the Mayor and countersigned by the Town Clerk.

Funds and effects of Corporation alone liable.

6. No liability, personally, shall attach to any Councillor for authorising the drawing or negotiating of such documents, nor shall the Mayor or Town Clerk be liable, personally, as such. The funds and effects of the Corporation shall be alone liable to be attached or taken in execution in satisfaction of any judgment which may be obtained thereon.

Register—open to inspection.

7. The Town Council shall keep a register of all such Bills of Exchange and Promissory Notes drawn or negotiated by them, which shall be open to the inspection of the Burgesses at all reasonable times.

Interest payable out of general revenue.

8. The Town Council in borrowing on overdraft as provided in Section 4, or in issuing Bills of Exchange or Promissory Notes as provided in Section 5, shall not be restricted to the rate of interest provided in Section 3 hereof. The interest upon any sum borrowed on overdraft at Bankers, or on Bills of Exchange or Promissory Notes, shall be, and is hereby charged upon and made payable out of the general revenue of the Borough, and shall in no case form a charge against the loan authorised by this Act.

Saving of rights.

9. Nothing in this Act, and nothing done under the provisions of this Act, shall take away, abridge or prejudicially affect any right or interest by way of priority or otherwise, of any person in or to the rates, rents, or general revenue of the Borough.

Schedule.

SCHEDULE.

For Completion of the Scheme for Water Supply ... £200,000

Act No. 29, 1905.

“To amend Act No. 8 of 1902, entitled Act ‘To increase the borrowing powers of the Mayor and Councillors of the City of Pietermaritzburg.’”

[18th August, 1905.]

WHEREAS by Act No. 8 of 1902 the Mayor and Councillors of the City and Borough of Pietermaritzburg were authorised to borrow up to but not exceeding a total sum of One Hundred Thousand Pounds (£100,000) Sterling, to be used for the purposes mentioned in said Act, in accordance with the amounts approximately estimated in the Schedule attached to said Act:


AND WHEREAS the said Mayor and Councillors are desirous of expending the balance of the loan, after paying off the balance of the cost of erection of the New Town Hall Buildings authorised by said Act, for the purpose of erecting a New Police Station and Fire Brigade Building in place of the New Market Hall with Cold Storage Buildings authorised by said Act:

BE IT THEREFORE ENACTED by the King’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. The Mayor and Councillors of the City and Borough of Pietermaritzburg are authorised to expend the balance of the sum of One Hundred Thousand Pounds (£100,000) Sterling authorised by Act No. 8 of 1902, after paying off the balance of the cost of the erection of the New Town Hall Buildings, for the purpose of the erection of a New Police Station and Fire Brigade Building, in place of the New Police Station and New Market Hall with Cold Storage Buildings authorised by said Act.

Act No. 40, 1906.


“To empower the Mayor and Councillors of the Borough of Pietermaritzburg to transfer to themselves the Remainder of the Public Outspan No. 2 and the Public Outspan

No.  in the said Borough free from all trusts and servitudes at present affecting the same, and to declare the said pieces of land to be portions of the Town Lands of the said Borough.”

[25th August, 1906.]

WHEREAS by Deed of Transfer, bearing date the 20th day of February, 1879, certain portions of the Town Lands of the said


Act 40, 1906. Borough, being the Remainder of Outspan No. 2 and Outspan

No.  marked on the General Plan of the said Borough,

have been reserved in favour of the Mayor and Councillors of the said Borough and their successors in office, in trust inalienable, as outspans or grazing grounds for the use of travellers and the burgesses of the said Borough :

AND WHEREAS the said pieces of land are not now necessary for the purposes for which they were originally reserved :

AND WHEREAS the said Mayor and Councillors are desirous of transferring the said Remainder of Outspan No. 2 and


Outspan No.  to themselves free from all trusts and

servitudes affecting the same :

AND WHEREAS plans of the said pieces of land have been lodged in the offices of the Clerks of the Legislative Council and Legislative Assembly :

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. It shall be lawful for the said Mayor and Councillors, with the consent in writing of the Governor, to transfer to themselves the beforementioned outspans, viz. :—

The remainder of Outspan No. 2, containing 75 acres 2 roods and 9 perches, more or less, and Outspan No.  containing 30

acres 1 rood 37 perches, more or less, the boundaries whereof are more fully set out in the Schedule of this Act, free from all trusts and servitudes affecting the same, and the said pieces of land so to be transferred shall form a portion of the Town Lands of the City and Borough of Pietermaritzburg.

2. The Registrar of Deeds is hereby empowered to register transfer of the portions of land, in the foregoing section referred to, to the Mayor and Councillors of the said Borough free of transfer duty thereon.

3. It shall be lawful for the Town Council of Pietermaritzburg to agree with the Colonial Government for the transfer of any part or parts of the lands mentioned in this Act, which may be required for railway or other public purposes ; and the Mayor shall be empowered, upon being thereto authorised by resolution of the Town Council to give transfer and conveyance of such lands to the Colonial Government.

Transfer of lands authorised.

Transfer to be registered free of duty.


Town Council may agree for transfer to Colonial Government.

SCHEDULE.


Act 40, 1906.

The remainder of Outspan No. 2 is bounded :—

Northwards by the Umsindusi River ;
Eastwards by Subdivision A of Outspan No. 2 ;

South Westwards by Outspan No.  ;

North Westwards by Lots 165 and 331.

Outspan No.  is bounded :—

North Eastward by Outspan No. 2 ;
South Eastward by a road ;
South Westwards by Town Lands ;
North Westwards by Lot N.G.R. 12.

Act No. 41, 1906.

“To increase the Borrowing Powers of the Town Council of Pietermaritzburg.”

[25th August, 1906.]

WHEREAS it is expedient to increase the Borrowing Powers of the Borough of Pietermaritzburg for the purpose of enabling the Town Council thereof to defray the cost of extending their Electric Supply and Tramways system and for certain Public Works, Sanitary Works and the purchase of Lot 124 Town Lands :

BE IT THEREFORE ENACTED by the King’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of Natal, as follows :—

1. The short title of this Act shall be “ The Pietermaritzburg Consolidated Stock Act, 1906.” Short title.

2. The Town Council of Pietermaritzburg are hereby authorised to borrow sums up to but not exceeding a total sum of One Hundred and Ten Thousand Pounds (£110,000) Sterling, to be used for the purposes set forth in the Schedule to this Act annexed. Loan authorised.

3. The Town Council are authorised to issue, in the manner provided by Law No. 20 of 1888, new Consolidated Stock for the Moneys borrowed under this Act, and the stock issued under this Act shall bear interest at the rate not exceeding four per cent. per annum, and shall be deemed to be Consolidated Stock within Consolidated Stock.

Act 41, 1906. the meaning of the said Law No. 20 of 1888, and shall be a charge upon, and shall, with the interest thereon, be payable out of the rents, rates and general revenue of the Borough in the same way as if the Stock issued under this Act had been issued under the said Law No. 20 of 1888.

Loan on Bank overdraft pending issue of Stock.

4. The Town Council are authorised, pending the issue of such new Consolidated Stock, to borrow on overdraft such sums as may from time to time be arranged with their Bankers and as are required to be used for the purposes set forth in the Schedule hereto annexed to an extent not exceeding £104,500 of the amount authorised by this Act on Special Resolution of the Council to be passed from time to time authorising the amount to be overdrawn.

Bills of Exchange may be negotiated in lieu of overdraft.

5. The Town Council may further authorise and empower the Mayor for the time being to draw and negotiate Bills of Exchange and Promissory Notes up to the said extent of £104,500 Sterling in lieu of borrowing on overdraft from the Bank, as provided in the immediately preceding section. Such Bills shall be signed by the Mayor and counter-signed by the Town Clerk.

Liability on Bills.

6. No liability, personally, shall attach to any Councillor for authorising the drawing or negotiating of such documents, nor shall the Mayor or Town Clerk be liable, personally as such. The funds and effects of the Corporation shall be alone liable to be attached or taken in execution in satisfaction of any judgment which may be obtained thereon.

Register of bills.

7. The Town Council shall keep a register of all such Bills of Exchange and Promissory Notes drawn or negotiated by them, which shall be open to the inspection of the Burgesses at all reasonable times.

Interest on sums borrowed.

8. The Town Council on borrowing on overdraft as provided in section 4, or in issuing Bills of Exchange or Promissory Notes as provided in section 5, shall not be restricted to the rate of interest provided in section 3 hereof. The interest upon any sum borrowed on overdraft at Banker's or on Bills of Exchange or Promissory Notes shall be, and is hereby charged upon and made payable out of the general revenue of the Borough, and shall in no case form a charge against the loan authorised by this Act.

Saving of rights of priority.

9. Nothing in this Act, and nothing done under the provisions of this Act, shall take away, abridge, or prejudicially affect any right or interest by way of priority or otherwise, of any person in or to the rates, rents or general revenue of the Borough.

SCHEDULE.

Act 41, 1906.

Electric Supply	£23,198	5	2
Tramways	45,360	0	0
Public Works	20,946	4	9
Sanitary Works	6,231	2	0
Purchase Lot 124 Town Lands ...	8,764	10	1
Contingencies	5,500	0	0
	£110,000	0	0

Act No. 42, 1906.

“To further amend Act No. 8 of 1902, entitled Act ‘To increase the borrowing powers of the Mayor and Councillors of the City of Pietermaritzburg’ as amended by Act No. 29 of 1905.”

[25th August, 1906.]

WHEREAS by Act No. 8 of 1902 the Mayor and Councillors of the City and Borough of Pietermaritzburg were authorised to borrow up to but not exceeding a total sum of One Hundred Thousand Pounds (£100,000) Sterling, to be used for the purposes mentioned in said Act, in accordance with the amounts approximately estimated in the Schedule attached to said Act :

AND WHEREAS by Act No. 29 of 1905 the said Mayor and Councillors were authorised to expend the balance of said loan, after paying off the cost of the erection of the New Town Hall Buildings for the purposes of erection of a new Police Station and Fire Brigade Building in place of the New Police Station and New Market Hall with Cold Storage authorised by the principal Act :

AND WHEREAS the said Mayor and Councillors are now desirous of expending the balance of the loan, after paying off the balance of the cost of erection of the New Town Hall Buildings authorised by said principal Act, for the purpose of erecting a New Market Hall, Police Station or Fire Brigade Station, Slaughter Houses, Public Wash-houses and other Public Buildings or to make any alterations or additions to any of these or other existing buildings in place of the New Police Station and Fire Brigade Building authorised by said amending Act :

BE IT THEREFORE ENACTED by the King’s Most Excellent

Act 42, 1906. Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Authorisation
of expenditure
of balance of
loan under
Act 8, 1902.

1. The Mayor and Councillors of the City and Borough of Pietermaritzburg are hereby authorised to expend the balance of the sum of One Hundred Thousand Pounds (£100,000) Sterling authorised by Act No. 8 of 1902, after paying off the balance of the cost of the erection of the New Town Hall Buildings, for the purpose of the erection of a New Market Hall, Police Station or Fire Brigade Station or Slaughter Houses, Public Wash-houses and other Public Buildings or to make any alterations or additions to any of these or other existing Buildings in place of the New Police Station and Fire Brigade Building authorised by said amending Act.

PIGEONS (CARRIER).

[See “WILD BIRDS PROTECTION.”]

PLANTS (DISEASED).

Plants Diseases Act, 1904.

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Act No. 45, 1904.

“To prevent the Introduction and Spread of Disease in Plants.”
[19th August, 1904.]

BE IT ENACTED by the King’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. This Act may be cited as the “Plants Diseases Act, Short title. 1904.”

2. Law No. 15, 1881, entitled Law “To regulate the introduction into this Colony of Plants or Cuttings, which by reason of Disease, or otherwise, might be injurious to the interests thereof,” is hereby repealed, without prejudice to any proclamation, order, or regulation made thereunder, all of which shall continue in force until revoked by a proclamation, order, or regulation under this Act. Repeal.

3. In this Act :— Definitions.

“Plant” means any tree, shrub, or vegetation, and the fruit, leaves, cuttings, bark, and any part or product

Act 45, 1904.

thereof whatsoever, whether severed or attached.

“*Disease*” means any of the insect pests or plant diseases mentioned in the Schedule of this Act, and any insect pest or plant disease which the Governor in Council may by proclamation declare to be a pest or disease within the meaning of this Act.

“*Diseased*” means affected with such disease; and

“*Healthy*” means not so affected.

“*Nursery*” means any land or premises whereon are grown any plants intended for sale or distribution for the purpose of being grown elsewhere.

“*Orchard*” shall mean any land or premises where are grown and cultivated any fruit-bearing plants or trees, and extends to and includes a garden or vinery.

“*Minister*” means the Minister of Agriculture.

“*Board*” means the Honorary Board of Advice.

Inspectors.

4. The Minister may from time to time appoint Inspectors and other officers necessary for the carrying out of this Act.

Board of Advice.

5. The Minister may, from time to time, appoint an Honorary Board of Advice, consisting of five members, of whom one shall be the Government Entomologist, and the others representative fruit farmers and nurserymen. Such Board of Advice to exist at the pleasure of the Minister, and the members thereof to receive no fee or reward for their services, save only travelling expenses. The functions of the Board to include advising the Minister with regard to:—

- (a) Prohibiting or restricting the importation of plants, and their removal within the Colony from place to place.
- (b) The framing of rules and regulations under this Act.
- (c) What pests and diseases shall be brought under the provisions of this Act, and regarding the administering of the Act generally.

Introduction of plants.

6. The Governor may from time to time, by Proclamation, prohibit the introduction into Natal of any plant which may be considered likely to introduce any disease. Such Proclamation may either be absolute or subject to such conditions or exceptions as may seem proper, and may apply to the introduction of plants either generally or from any specified place.

Destruction of plants.

7. The Governor may from time to time, by Proclamation, on the advice of the Board, order that all plants in nurseries throughout the Colony which may be affected with any specified

disease shall be destroyed, or that they shall be isolated and treated in any specified manner (a). **Act 45, 1904.**

8. The Governor in Council may, from time to time, make and alter regulations for all purposes necessary for carrying out this Act, and for giving full effect thereto. Such regulations may, amongst other things, prescribe the conditions under which plants may be introduced into this Colony; the duties and authority of inspectors or other officers, and the mode and means of carrying out and enforcing the provisions of this Act or of any proclamation or order. **Rules.**

9. Every nursery shall be registered by the occupier thereof at the office of the Magistrate of the Division on or before the 31st day of January in each year. **Registration.**

10. An Inspector may at all reasonable times enter a nursery or orchard, with his assistants, for the purpose of making an inspection or carrying out any other duties therein. **Inspection.**

11. The Minister may, on the advice of the Board, make an order requiring the occupier of a nursery or orchard to take, within a specified time, all such measures for the eradication of diseases as may be prescribed in the order. The Minister may in like manner make an order placing any nursery or orchard under quarantine. **Measures for eradication of disease.**

12. So long as an order of quarantine applies to a nursery or orchard, it shall not be lawful to remove any plant or any part or product of a plant therefrom, except with the permission and under the direction of an Inspector, and the occupier shall comply with all instructions contained in the regulations or specially prescribed by an inspector, with the approval of the Minister, for eradicating or preventing the spread of the disease. **Quarantine.**

13. The occupier of every nursery shall provide proper and approved chambers for fumigating with hydrocyanic acid gas, and it shall be his duty to fumigate all plants immediately before delivery in accordance with the regulations. **Fumigation.**

14. No person shall send out from a nursery any plant affected with disease. If any plant is so sent out, the occupier of the nursery, as well as every person actually ordering or superintending the sending out of such plants, shall be deemed guilty of a contravention of this Act. **Diseased plants not to be sent out from a nursery.**

15. Every nurseryman selling plants shall be deemed to have warranted the same as being free from disease, and he shall not be entitled to receive or recover payment for any plant which may be so diseased: Provided that no defence or claim **Sale of plants.**
Implied warranty.

(a) See sec. 16, post.

Act 45, 1904. for the restitution of price, other than such as would be maintainable if this Act had not been passed, shall be competent to a purchaser unless he shall show that he gave written notice of such disease to the vendor or his agent, either delivered personally or by telegram, or sent by registered post within three days next after the day on which the plants actually reached the purchaser.

Treatment,
&c., of plants.

16. When any disease considered by the Minister, on the recommendation of the Board, to be a source of danger is prevalent in any nursery, orchard, or fruit garden he may, if he deems such a measure necessary in order to prevent its spread, order the special treatment and, if necessary, the destruction of any specified kinds of plants therein, whether such plants be diseased or not: Provided that compensation shall be paid for healthy plants so destroyed. The amount of compensation shall be fixed as provided for in this Act (a).

Powers of
Inspectors.

17. Any Inspector appointed under this Act or any officer of the Customs may seize any plant which is being imported into the Colony and which is suspected of being affected with disease; and any Inspector may inspect the same and require it to be disinfected to his satisfaction, and if he is satisfied that it is diseased, and that the disease cannot otherwise be satisfactorily eradicated, he may have the plant destroyed, together with any box, basket or package in which it has been packed. An Inspector may similarly seize and deal with any plant which may be found in transit or exposed for sale in the Colony or which is being sent out from a nursery, and appears to be diseased.

Compensation.

18. No person shall be entitled to receive any compensation whatever for the destruction of plants ordered to be destroyed on account of disease, except that where healthy plants are ordered to be destroyed as a measure of precaution, the owner shall be entitled to receive payment of their value from the public revenue. Such value shall, unless agreed, be assessed by two persons chosen by the Inspector and the owner respectively, and failing agreement between them, it shall be determined by the award of a competent person mutually chosen by the assessors.

Trespass.

19. No inspector and no person acting under the direction or order of such Inspector shall be deemed to be a trespasser by reason of any entry or destruction under this Act, or be liable for any damages occasioned by carrying out the provisions of this Act unless the same were occasioned maliciously and without reasonable cause.

Obedience of
orders.

20. Every owner of plants, nurseryman, or occupier of

(a) See sec. 18, post.

premises, and every person representing him, or having charge of any plants or premises under him, shall be bound to obey all lawful orders made by the Minister or by an Inspector, and shall give the Inspector every assistance in carrying out such order, or shall himself carry it out if so required. **Act 45, 1904.**

21. Any obligation placed by this Act upon the occupier of a nursery or other land shall in his absence or default, or if there be any doubt as to who is to be considered as the occupier, be equally binding upon every person having the charge or superintendence of such nursery or land. **Obligations.**

22. Every person shall be guilty of a contravention of this Act who:— **Offences.**

(a) In any manner obstructs or impedes any person in the execution of any of the powers conferred by this Act or refuses any assistance which he is required to give; or

(b) Disobeys or neglects to comply with any of the provisions of this Act or the terms of any regulation, order, or proclamation made thereunder.

23. All persons contravening this Act, or any regulation or lawful order made thereunder, shall for each offence be liable to a penalty not exceeding Twenty Pounds (£20) Sterling, to be recovered in the Court of a Magistrate by the Clerk of the Peace or by an Inspector or other proper officer of the department. **Penalty.**

24. This Act shall not come into force until six months after the promulgation of the same in the *Natal Government Gazette* (a). **Commencement.**

SCHEDULE.

Insect Pests.

Codling moth (*Carpocapsa pomonella*).

San Jose Scale (*Aspidiotus perniciosus*).

Pear Slug (*Selandria cerasi*).

Cape Fruit Fly (*Ceratitis capitata*).

Apple Mussel Scale (*Mytilaspis pomorum*).

Orange Mussel Scale (*Chionaspis citri*).

Parlatoria of the orange (*Parlatoria ziziphus* and *Parlatoria Pergandei*).

Glover's Scale (*Mytilaspis gloveri*).

Plant Diseases.

Orange Yellows and Peach Rosette.

Crown Gall.

Fusicladium of the Apple.

POLICE.

POLICE.

Act No. 30, 1901.

“To extend the operation of the 46th Section of the Natal Police Act, 1894.”

[19th August, 1901.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. Any period served by a member of the Natal Police (*a*) in the Police Force of any Borough or Township in Natal immediately before his admission to the Natal Police Force shall be counted for the purposes of superannuation in terms of Section 46 of the Natal Police Act, 1894 (*b*).

POLL TAX.

[See “TAXES.”]

POOR.

[See “DESTITUTE PERSONS.”]

POPULATION.

[See “CENSUS.”]

(*a*) *Mfunzana v. Ross* (26 N.L.R., 677) a native who was described in a summons as “now of the Natal Police Force” was held to be a “policeman” within the definition of that word in sec. 3 of Act No. 1, 1894. See also sec. 48.
 (*b*) There does not appear to be any such Act, but probably the “Police Act of 1894” is intended.

POST OFFICE.

Act No. 12, 1903.

“To amend the Post Office Law, 1884.”

[8th July, 1903.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. In addition to the purposes for which regulations may be made in terms of Section 4 of the Post Office Law, 1884, it shall be lawful for the Governor from time to time, to make and alter regulations for the insurance of and for the granting of compensation for the loss of or damage to letters, parcels, and packets forwarded through the post from any place in Natal to any other place therein. -

Additional
Regulations.

2. Such regulations may, *inter alia*, deal with the following matters :—

Subject of
Regulations.

- (1) The conditions under which such letters, parcels and packets as aforesaid may be posted, conveyed and delivered.
- (2) The declaration or declarations necessary to be made as to the contents of letters, parcels, and packets desired to be insured.
- (3) The maximum amount for which any letter, parcel, or packet may be insured, or which may be granted as compensation in respect of the loss of or damage to such letter, parcel, or packet.
- (4) The fees chargeable for the insurance of such letters, parcels, and packets.
- (5) The articles which may or may not be contained in such letters, parcels, and packets.
- (6) The conditions under which the amount assured shall be paid, and under which claims for loss or damage shall be entertained.
- (7) The period within which claims for compensation for letters, parcels, and packets, and insured letters, parcels, and packets may be entertained.

3. Nothing contained in or done under, or in pursuance of this Act, shall render the Postmaster-General, either in his personal or in his official capacity, or the Colonial Government, liable to any action or other legal proceeding whatsoever in

Immunity of
Postmaster-
General and
Colonial
Government.

Act 12, 1903. respect or in consequence of any loss of or damage to any letter, parcel, or packet posted or received for transmission by post whether such loss or damage be occasioned by or arise from any act of neglect of any officer of the Post Office, or any other person, and the decision of the Postmaster-General on all questions arising between him and any person claiming payment in respect of the loss of or damage to any article enclosed in or forming part of any such letter, parcel, or packet shall be final and conclusive.

Extension to other Countries.

4. It shall be lawful for the Governor, if he shall deem it expedient so to do, to make arrangements or conventions for extending to the United Kingdom, or any British Possession or Foreign Country, the system of insurance and compensation provided by this Act.

Date of such Extension.

5. So soon as any such arrangement or postal convention shall have been made under the authority of this Act, the Governor may from time to time issue a Proclamation defining a time for such arrangement or convention to come into operation, and from and after such time the provisions therein as to any payments, insurance, or compensation thereunder, and the regulations therein set forth, shall be observed and have force of law.

Copies of Conventions to be laid before Parliament.

6. Copies of all arrangements or conventions made between the Government of this Colony and the Postmaster-General of the United Kingdom, or the proper authorities of any British possession or Foreign Country, and copies of all regulations or orders made by the Governor under the provisions of this Act, shall from time to time be laid before both Houses of Parliament within thirty days after the making thereof, respectively, if Parliament be in Session, and if Parliament be not then in Session within thirty days after the commencement of the next Session.

Reservations.

7. Nothing in this Act contained shall be taken or deemed in any way to affect, impair or weaken the provisions of Section 47 of the Post Office Law, 1884.

Short Title.

8. This Act may be cited for all purposes as "The Post Office Law Amendment Act, 1903."

Act No. 10, 1904.

“To amend Act No. 12, 1898, entitled Act ‘To amend the Post Office Law, 1884.’”

[8th July, 1904.]

BE IT ENACTED by the King’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. Notwithstanding the provisions of Section 2 of Act No. 12, 1898, any newspaper, printed circular, advertisement or the like remaining unclaimed or undelivered at any Post Office on the last day of any month, after having lain there for at least two months, may be destroyed by the Postmaster.

Destruction
unclaimed
Newspapers,
&c.

2. Section 31 of the Post Office Law, 1884, is hereby amended by substituting Forty Pounds for Ten Pounds as the maximum sum for which money orders may be issued.

Maximum
Money Orders,
£40.

POUNDS.

Act No. 12, 1905.

“ To amend the Pound Act, 1898.”

[26th June, 1905.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. The fee to be charged by a Poundkeeper for herding pigs shall be sixpence (6d.) per head per day, and Sections 25 and 59 of the Pound Act, 1898, are hereby amended accordingly.

PROBATE, ADMINISTRATION, &c.

Act No. 2, 1902.

“To amend the Letters of Administration and Foreign Probates Act of 1894.”

[2nd May, 1902.]

WHEREAS it is expedient to amend the Letters of Administration and Foreign Probates Act, 1894 :

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. Section 16 of the said Act is hereby repealed, and the following enacted in place thereof :—

16. The Executor or Trustee of any proved will to which the first or second part of this Act may apply, shall be empowered to appoint, by power of attorney, an agent in this Colony to do all or any thing that the executor or trustee may himself be required or entitled to do under any such will.

PROHIBITED IMMIGRANTS.

[See “IMMIGRATION (RESTRICTED).”]

PROMISSORY NOTES.

[See “CONTRACTS.”]

PROSTITUTES.

[See “CRIMINAL LAW”; “IMMIGRATION (RESTRICTED).”]

PUBLIC EMPLOYEES.

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Act No. 14, 1901.

“To amend Act No. 29, 1897, entitled Act ‘To make provision for the old age of certain persons in the public employ.’”

[19th August, 1901.]

BE IT ENACTED by the King’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Amendment of
Act No. 29,
1897.

1. Section 1 of Act No. 29, 1897, is hereby amended by expunging therefrom the words “Provided that the liability of the Government shall not exceed £2,000 per annum, save as is mentioned in Section No. 19.”

2. Section 19 of the said Act is amended by expunging therefrom the words “In case of any such incorporation, the liability of the Government as limited by Section 1 of this Act may be extended to the extent of the liability of the Government under the Police Act of 1894, and to the Railway Superannuation Fund.”

Act No. 7, 1902.

“To amend Act No. 29, 1897, entitled Act ‘To make provision for the old age of certain persons in the public employ.’”

[2nd May, 1902.]

BE IT ENACTED by the King’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Computation
of superannua-
tion allowance.

1. The superannuation allowance or annuity provided for by Section 14 of Act No. 29, 1897, shall be computed upon the average of salary for the five years immediately preceding the year in which the retirement of a contributor takes place, and

not upon the average of salary for the whole time during which he shall have contributed to the superannuation fund. **Act 7, 1902.**

2. This Act shall apply only to retiring allowance or annuities commencing after the date that this Act shall have come into force. **Application of Act.**

Act No. 14, 1905.

“To make provision regarding the superannuation of certain officers of the Public Service and of the Indian Immigration Trust Board.”

[29th June, 1905.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. James Akerman Polkinghorne, Protector of Indian Immigrants, who became an officer of the permanent Civil Service on the 23rd day of July, 1903, shall be deemed to have been, as from the first day of January, 1893, an officer of the public service, and to be entitled in terms of Section 30 of the Civil Service Act, 1894, to pay contributions for the purposes of superannuation in respect of his services from the said date, and upon doing so, he shall be entitled to count his service for the purpose of pension under Law No. 22, 1874, as from the said first day of January, 1893.

Date from which service of J. A. Polkinghorne may be reckoned.

2. Alfred Robert Dunning, Deputy Protector of Indian Immigrants, and Walter Stead, Assistant Secretary to the Indian Immigration Trust Board of Natal, shall be deemed to be and to have been, as from the first day of January, 1893, and the first day of January, 1898, respectively, persons in the public employ within the meaning of the Public Employees Superannuation Act, 1897 (a).

A. R. Dunning and W. Stead entitled to benefit of Act 29, 1897

3. Notwithstanding the provisions of Section 3 of the Public Employees Superannuation Act, 1897 (b) David Anderson Hendrie and George Thomas Wheatley, respectively Locomotive Superintendent and Assistant Locomotive Superintendent in the Department of the Natal Government Railways, shall be entitled to the benefit of the fund created by the said Act upon contributing thereto in the usual manner, and such contributions may be made as from the dates of their respective appointments.

—also D. A. Hendrie and G. T. Wheatley

(a) There appears to be no such Act on the Statute Book, but probably the reference is to Act No. 29, 1897.

(b) See note (a) supra.

Act No. 38, 1906.

“To bring certain officers of the Indian Immigration Trust Board of Natal within the provisions of the Public Employees Superannuation Act, 1897.”

[25th August, 1906.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. Notwithstanding the provisions of Section 3 of the Public Employees Superannuation Act, 1897 (*a*), the following persons, namely :—

Certain persons to be admitted as contributors.

John William Rycroft, Frank Coillard Smith, Hugh James Brickhill, William George Ketley, Francis Henry Lowe, William Lynn Hamilton Burns, Cuthbert Lakin, Jorgen Andreas Jorgensen, and Robert Langton, being officers of the Indian Immigration Trust Board of Natal, shall be entitled to be admitted as contributors to the superannuation fund created by the said Act and to enjoy the benefits of the said Act, and their contributions may, under the usual conditions, be made as from the dates of their respective appointments as officers of the said Board.

Contributions by Government to be paid from revenue of the Board.

2. The contributions which, in terms of Section 1 of the said Act would be paid by the Government to the said fund in respect of the membership of the persons aforesaid, shall be paid half-yearly from the revenue of the said Board and not by the Government.

(a) See notes to Act No. 14, 1905, ante.

PUBLIC HEALTH.

[See "FOOD AND DRUGS (ADULTERATION)."]

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Act No. 7, 1901.

"To extend the provisions of the Leprosy Law, 1890."

[30th July, 1901.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. Notwithstanding anything contained in Section 18 of the Zululand Annexation Act, 1897, it shall be lawful for the Governor in Council to take and set apart for the purposes authorised by Section 1 of the Leprosy Law, 1890, a certain piece of Crown Land, in extent approximately seven thousand acres, near the mouth of the Amatikulu River, in the Umlalazi District of the Province of Zululand.

Appropriation
of land in
Umlalazi
District for a
leper location.

2. All Natives lawfully occupying any portion of the said land at the date of the passing of this Act shall be required to remove therefrom, and shall be placed upon other suitable land by the Government.

Removal of
Natives from
the land.

3. All Natives required to remove in terms of the preceding section shall receive full compensation for any loss or damage suffered by them in consequence of their removal, and it shall be the duty of the Secretary for Native Affairs to superintend their removal and the granting of any compensation.

Compensation
to Natives
removed.

4. When any Natives shall have been compulsorily placed in a leper location or hospital under the provisions of the Leprosy Law, 1890, the wives, daughters, and other persons whom such Natives would by Law be required to maintain shall be deemed to be wards of the Supreme Chief, who shall cause suitable provision to be made, at the public expense if need be, and irrespective of the proviso to Section 27 of the said Law of 1890, for the support and care of such persons so long as they may be in

Provision for
maintenance
of families of
Natives placed
in leper
location.

Act 7, 1901. need of such support and care, and have not passed under the authority of some person responsible at Law for their maintenance.

Exclusion of leprosy from operation of S. 241 of Native Code. 5. So long as Law No. 16, 1890, shall be in force, Section 241 of the Schedule to Law No. 19, 1891, shall not be deemed to apply to the disease of leprosy (a).

Joint construction of laws. 6. Law No. 16, 1890, Acts Nos. 15, 1894, and 24, 1895, and this Act shall be construed together as one Act, and may be jointly referred to as the Leprosy Acts, 1890-1901.

Public Health Act, 1901.

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(a) The sec. referred to gives power to the Supreme Chief at discretion to order the removal and detention of natives suffering from leprosy, &c., for the purpose of undergoing treatment.

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Act No. 44, 1901.

"To make provision for the Public Health."

[26th August, 1901.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

PART I.

Preliminary.

1. This Act may be cited as the "Public Health Act, 1901,"

Short title and duration of Act.

Act 44, 1901. and shall continue in force until the 31st day of December, 1902 (*a*).

Application of Act. 2. This Act shall not apply to the Boroughs of Pietermaritzburg and Durban, except as is hereinafter specially provided (*b*).

Health Officers 3. The Governor in Council may, from time to time, appoint a duly qualified and registered medical practitioner who shall possess a Diploma in Public Health and not be allowed private practice, to be the Health Officer for the Colony, and so many other qualified medical practitioners as may be required to be District Health Officers, who shall act within the districts assigned to them, and may also appoint such officers as are required for the staff of the Department of Public Health.

Other officers and employés. 4. The Minister having charge of the Department of Health, hereinafter called the Minister, may make any temporary appointment, and may appoint so many persons as may be required in each district as Sanitary Inspectors, and may also engage or authorise the engagement of any necessary subordinate employés.

5. [Repealed by Act No. 43, 1903.]

6. [Repealed by Act No. 43, 1903.]

Salaries and expenses of administration.

7. The salaries of officers and all other expenses of the administration of this Act, including compensation for losses and injury as hereinafter provided, shall be paid from the general revenue of the Colony, save as is by this Act specially excepted.

PART II.

Public Sanitation.

Regulations relative to sanitation, nuisances, and public health.

8. [The Governor in Council (*c*)] may, from time to time, make and alter regulations for all matters relative to sanitation and for the prevention and abatement of nuisances, and for all matters relative to the public health.

Such regulations may, amongst other things, provide:—

(*a*) For compelling the keeping, use and occupation of houses, buildings, privies, huts, shanties, tents, and all premises in a cleanly and good sanitary condition, and so as to prevent any risk to the health either of the inmates or of other persons.

(*a*) Continued in force (subject to amendments) until 31st December, 1907, by Act No. 39, 1906, post.

(*b*) See sects. 28 and 29, post, but see also sect. 38.

(*c*) Words in brackets are repealed and others substituted therefor by Act No. 43, 1903, sec. 4, post.

Act 44, 1901.

- (b) For compelling proper ventilation of buildings or huts, and for preventing their being overcrowded.
- (c) For compelling the proper drainage of premises, and the removal or destruction or proper disposal of rubbish or other unwholesome matter, or of stagnant or foul water, or of anything likely to be offensive or injurious to health.
- (d) For compelling the keeping of stables, sheds and other places where animals are housed or kraaled in a cleanly and wholesome condition, and so that no unwholesome vapour, smell or discharge may proceed therefrom, and for their being kept at a proper distance from houses, and if need be for their removal, subject to payment of any compensation which may be claimable in respect of such removal.
- (e) For the inspection of houses, huts, shanties, tents, factories and buildings of every kind, and of all lands and premises, for all purposes relative to sanitation and the public health.
- (f) For the inspection and supervision of places where meat, milk, fruit, or any other kind of food is prepared, collected or sent out for use or sale, and to ensure that all such things are prepared, kept and sent out in a wholesome state, and that proper precautions are taken for their being delivered in a sound and wholesome condition.
- (g) For preventing the pollution of streams, rivers, wells and other water, and of watercourses, and for compelling the disposal of noisome or foul discharges, dirt or refuse, so as not to enter or be drained into any such water or watercourse.
- (h) For compelling the carrying on of all manufactories or works so as to prevent as far as possible any offensive smell, vapour or discharge, and for forbidding the setting up, otherwise than in conformity with such reasonable conditions as may be prescribed, of any new industry, manufactory or works in the course of which offensive smells, vapours or discharges may be produced.
- (i) For the setting apart, or the disinfection or destruction of any clothing, goods or other articles considered likely to disseminate disease, and for the purification of any building, place or thing which may be or appears likely to be contaminated.

Act 44, 1901.

Regulations:
how, when,
and where to
take effect:
general or
special applic-
ation.

9. Any regulations under this Act may be expressed so as to be in force immediately upon publication, or so as to be enforced in such other way and at such times and places as may be specified.

Any of such regulations may also be expressed to apply either to all persons or to persons of any class whose habits and mode of life may be a source of danger to health.

Special orders
by District
Health Offi-
cers.

10. Upon the occurrence of any outbreak of epidemic disease, District Health Officers shall have the authority to make and enforce special orders when there appears to be urgent necessity for so doing (a).

The circumstances requiring such action shall be reported without delay to the Health Officer for the Colony.

Powers of
Health Officers
and Inspectors

11. Health Officers shall, within their respective districts, exercise full powers and authority for carrying out the objects of this Act. Sanitary Inspectors shall have similar authority for all matters entrusted to them, and for carrying out the orders of Health Officers, and shall whilst engaged in the duties of their office be deemed for all purposes to be constables.

Enforcement
of orders.

If the execution of an order is resisted, such force may be employed as is necessary, and any persons may be called upon to assist in the enforcement of the order.

Entry on
premises.

12. Every Health Officer and Sanitary Inspector, and any constable or other person having an order in writing for the purpose signed by a Health Officer or Sanitary Inspector, shall have authority to enter any house, building, enclosure or premises for the purposes of inspection, or for the carrying out of any orders given by the Health Officer, or for any purposes necessary for the execution of his duty.

Facilities to
be given to
officers; Re-
sistance or
obstruction.

13. All persons shall be required to give facilities to any officer or other person engaged in the performance of his duties under this Act, and any person who shall resist or obstruct any officer in the course of his duties, or shall refuse admission to any officer having the right of entry, or who shall disobey or wilfully disregard any order lawfully made, or which he is otherwise bound to obey, shall be guilty of an offence.

14. Every person who shall

Prohibition
of certain
nuisances.

(a) Discharge urine or faeces in any river, stream or watercourse, or in the channel, or on either bank thereof;

(b) Wilfully place, or cause to be placed, in any river, stream or watercourse, or in the channel, or on any

(a) See Act No. 43, 1903, post, sec. 6.

bank thereof, any dead animal, dung, rubbish, manure, cane trash, begasse or any filth, or any poisonous, noxious, alcoholic or narcotic substance, or any substance whatever tending to pollute the water of such stream, river or watercourse ; **Act 44, 1901**

- (c) Bathe in any river, stream or watercourse when suffering from a contagious or infectious cutaneous disease ; or
- (d) Wash in any river, stream or watercourse any animals or articles under circumstances likely to endanger the public health ;

shall be guilty of an offence, and shall be liable to a penalty not exceeding Fifty Pounds sterling (a).

15. If it shall appear to any District Health Officer or Sanitary Inspector that an accumulation of manure, filth, or other offensive or noxious matter on any premises ought to be removed, or that any nuisance exists which under this Act or the regulations, the occupier of the premises ought to remove or abate, or that anything has been done or permitted to continue contrary to this Act or the regulations, he shall give notice to the occupier (or if there be no occupier, to the owner or his agent), to remove or abate the same in such manner as he may direct, and if such notice is not complied with within twenty-four hours from the service thereof, he may at once cause the same to be removed or abated, and may dispose of any refuse or other matter removed in such manner as he may think fit.

Abatement of nuisances and insanitary conditions.

The expenses of anything done under this section may be recovered by the Inspector in the Magistrate's Court from the occupier or owner as the case may be.

16. Nothing in this Act or the regulations shall be deemed to affect any liability or prevent any prosecution under the ordinary law of the Colony relative to the pollution of water, or any other public nuisance, or in any way to abrogate the law relating to the prevention or abatement of public or private nuisances.

Saving of other remedies.

PART III.

Infectious and Epidemic Diseases.

17. [Repealed by Act No. 43, 1903.]

18. The provisions of Section 45 of Act No. 22, 1894, or the similar provisions of any Act repealing or amending the said Act,

Extension of sec. 45, of Act 22, 1894 : report of cases in boroughs.

(a) See Act No. 43, 1903, sec. 7, post, amending this sec.

Act 44, 1901. shall apply to all diseases which by this Act, or pursuant thereto, may be declared to be infectious or epidemic, and the foregoing provisions of this Act respecting the failure to furnish certificates relative to cases of infectious and epidemic diseases shall apply to any failure by a medical practitioner of Pietermaritzburg or Durban, or any other borough, to furnish the certificate required by the said Act of 1894, as amended by this section.

19. [Repealed by Act No. 43, 1903.]

Meaning of term—"infectious disease."

20. The expression "infectious disease" includes the following diseases, namely:—Bubonic plague, by whatever names it may be known, small-pox, cholera, diphtheria, membranous croup, scarlatina or scarlet fever, and leprosy, and the fevers known by any of the following names:—Typhus, typhoid (or enteric), relapsing, puerperal, and any disease which may be included in this section either permanently or for a specified time by order of the [Health Officer of the Colony (a)]. Any such order may from time to time be varied, renewed or revoked.

Meaning of term—"epidemic disease."

21. The expression "epidemic disease" means any disease which [the Health Officer for the Colony] shall order to be regarded as being epidemic until the order is revoked; and such order shall state whether it is to apply to the whole Colony, or to any specified district or districts.

Publication of order declaring a disease infectious or epidemic.

22. Every order declaring a disease to be infectious or epidemic shall be published at least four times in the *Natal Government Gazette*, and in each of four newspapers, and a copy thereof shall be sent to every registered medical practitioner practising in the Colony.

23. [Repealed by Act No. 43, 1903, sec. 11.]

Regulations: persons suffering from infectious or epidemic diseases: exercise of powers under Quarantine and Leprosy laws.

24. [The Governor in Council (b)] may from time to time make regulations for any of the following purposes:—

(a) The isolation and treatment, or the compulsory removal to a hospital of persons affected or suspected of being affected with infectious or epidemic diseases, or of persons who, having been exposed to the risk of infection, are likely to be a source of danger to others;

(b) For the exercise by Health Officers or any other persons employed under this Act of the powers under Law No. 2, 1884, and Act No. 14, 1899, and

(a) The words "Board of Health" are substituted for "Health Officer for the Colony." See Act, No. 43, 1903, s. 10.

(b) Words in brackets are repealed by Act No. 43, 1903, sec. 4, and others substituted therefor.

under Law No. 16, 1890, as amended by subsequent **Act 44, 1901.**
Acts.

Such regulations may provide for the compulsory detention in hospitals of persons suffering from infectious or epidemic diseases respectively, and may prescribe the discipline to be observed by persons in hospitals, the duration and renewal of orders for detention, the conditions and mode of discharge from hospitals, the powers and duties of hospital officers and attendants, and generally all matters necessary for carrying out proper precautions against the spread of such diseases.

25. If at any time the Colony is affected by or threatened with any epidemic or infectious disease, the Governor in Council shall have power to make regulations or give directions for any of the following purposes :—

Regulations which may be made on outbreak or threatened outbreak of epidemic or infectious disease.

- (a) For the speedy interment of the dead, or for the destruction or other disposal of bodies affected by Bubonic Plague.
- (b) For the conduct and direction of the route of funerals.
- (c) For controlling the establishment of cemeteries, so that they may not be placed in unsuitable localities, and for ensuring the proper use and management thereof.
- (d) For the removal of the inmates from any house, hut, shanty, tent, or other building or premises, and for preventing the use or occupation thereof until the danger has passed.
- (e) For the taking of any measures necessary to purify any house, hut, shanty, tent, or other building, or any premises, and to prevent any risk arising from the condition thereof.
- (f) For the destruction or removal of any house, hut, shanty, tent, or other building, or the execution of any alterations thereto, or of any work thereupon, or upon any premises (a) :

Provided that the powers under this sub-section shall not be enforced in respect of any house or building of a permanent character, and constructed by skilled workmen, and not being a privy, shed or structure of a like character, except by a special order in writing made upon the recommendation of the

(a) See clause added by Act No. 43, 1903, sec. 12, post.

Act 44, 1901.

[Health Officer for the Colony (a)] and signed by the Minister on behalf of the Government.

(g) For carrying out any other measures which may be deemed necessary for preventing the outbreak or for checking the spread of disease (b).

Disinfection of public conveyances: conveyance of patients.

26. Every owner or driver of a public conveyance, shall immediately provide for the disinfection to the satisfaction of the Sanitary Inspector of such conveyance after it has to his knowledge conveyed any person suffering from an infectious disease or the body of any person that has died from infectious disease, or any article, matter, or thing that has been exposed to infection from any such disease, and if he fails to do so he shall be liable to a penalty not exceeding Ten Pounds sterling; but no such owner or driver shall be required to convey any person so suffering, or any article, matter, or thing so infected, until he has been paid a sufficient sum to cover any loss or expense incurred by him in carrying into effect the provisions of this section.

Vacating or letting for hire houses requiring disinfection.

27. Any person who shall [cease to occupy, or (c)] knowingly (the onus of proof to the contrary of which shall lie upon such person) let for hire any house, room, part of a house, hut, shanty, or tent in which any person has been suffering from any infectious disease, without having such house, room, part of a house, hut, shanty, or tent, and all articles therein liable to retain infection, efficiently disinfected to the satisfaction of the Sanitary Inspector, shall be liable to a penalty not exceeding Twenty Pounds sterling. For the purposes of this section, the keeper of any hotel shall be deemed to let for hire part of a house to any person admitted as a guest into such an hotel.

PART IV.

Boroughs and Townships.

Act may be extended to Pietermaritzburg and Durban.

28. The operation of this Act may from time to time be extended by order of the Governor in Council to the Boroughs of Pietermaritzburg and Durban, or to either of them, subject to the special provisions hereinafter contained.

Publication and duration of order so extending the Act.

29. Every such order shall be published in the *Natal Government Gazette*, and shall continue in force until revoked, and after the revocation thereof shall continue in force only to such extent as may be necessary for determining questions of compensation

(a) Words "Board of Health" are substituted for the words in brackets by Act No. 43, 1903, sec. 10, post.

(b) See further sub-sec. added by Act No. 43, 1903, sec. 13, post.

(c) Words in brackets are expunged by Act No. 43, 1903, sec. 14, post.

or of rights or liabilities arising in connection with the administration of this Act during the currency of the order, or for the trial and punishment of offences committed during that period.

Act 44, 1901.

30. Such order may withhold from operation in either borough any specified powers under this Act, or may require that any specified powers under the Act shall not be exercised without the approval in writing of the Minister, or of the Board of Health, as the case may be.

Special terms of order.

31. Such order may contain any modifications in detail of the provisions of this Act which may appear to be necessary in order to avoid any difficulty arising from a conflict between this Act and the Laws relating to the boroughs, or to meet the special conditions of either borough :

Modification by such order of provisions of the Act.

Provided always that no greater powers shall be defined in the order than are contained in this Act, and that nothing in the order shall take away or lessen any right of compensation or other remedy under this Act to persons injuriously affected by anything done in pursuance of this Act.

32. Every such order may be varied by a subsequent order similarly made and published, provided that no such later order shall affect any right to compensation or other remedy which may have arisen before the date of the later order.

Order may be varied.

33. Subject to the foregoing provisions of this Act, and to the terms of any order made by the Governor in Council as aforesaid, the Town Council of either borough to which this Act may apply shall have power to make by-laws in the ordinary manner for any matters for which the Governor in Council is by this Act empowered to make regulations.

By-laws of Pietermaritzburg or Durban.

Subject also as aforesaid, the powers and authority (a) of the Health Officer of the Colony and of District Health Officers may in either such borough be exercised by duly qualified medical practitioners appointed by the Town Council, and the powers of Inspectors and other officers may be exercised by similar officers appointed by the Town Council.

Borough Officers.

34. Contraventions of any such by-laws shall be cognisable in the same Courts as have cognisance of contraventions of ordinary by-laws, and may be punished by fine not exceeding Fifty Pounds sterling, or imprisonment, with or without hard labour, for any term not exceeding six months, or by both fine and imprisonment as aforesaid, or by such imprisonment in default of the payment of a fine.

Contraventions of by-laws.

(a) The words " of the Board of Health " are here inserted by Act No. 43, 1903, s. 15, post.

Act 44, 1901.

Application of
Secs. 58, 59,
and 60 to
Pietermaritz-
burg or
Durban.

35. When this Act applies to either borough, the provisions of Sections 58, 59 and 60 shall *mutatis mutandis*, extend to by-laws of the borough, and to all acts and orders of the medical officer of health of the borough, and for the purposes of the said sections the medical officer of health for the borough shall have all the authority given by the said sections to District Health Officers, and to the Health Officer for the Colony; but the certificate which the Minister is by the said Section 60 empowered to give shall be given by him only, and not by any officer of the borough.

Removal of
medical officer
of either
borough.

36. No medical officer appointed to carry out the provisions of this Act within either borough shall be removable from his office during the currency of the Order in Council, without the approval in writing of the Minister, notwithstanding that such officer may have been appointed by any municipal authority.

Returns of
notified dis-
eases: annual
returns and
reports.

37. The Health Officers of Pietermaritzburg and Durban, or, if there be no Health Officer in either one or the other Borough, the Town Clerk shall send in at the end of every week to the Health Officer of the Colony a return, on forms to be prescribed by the [Health Officer of the Colony (*a*)], of the number of cases of notifiable disease notified during the week past; and at the end of each year a return of such numbers for the year past, together with the total population of the town, as far as derivable from the usual returns in the town. The Health Officers of these Boroughs shall also send every year to the Health Officer of the Colony a copy of their annual report to the authorities of the said Boroughs.

Inspection by
Health Officer
for the Colony
of Pieter-
maritzburg or
Durban.

38. The Health Officer for the Colony shall at all times have power and authority by himself or by any person specially authorised by him in writing to make an inspection of either of the Boroughs of Pietermaritzburg or Durban, or any part of them, and to enter upon any premises therein, for the purpose of ascertaining whether the objects of this Act are being efficiently carried out, or whether any condition exists which is likely to be a source of danger to the public health, notice of such intended inspection having previously been given to the Borough Authorities with a view to their assistance and co-operation (*b*).

This section and the preceding section shall take effect immediately upon the commencement of this Act (*c*).

Enforcement
of regulations
by Governor
in Council in
case of default
by either
borough.

39. If either of the said boroughs to which this Act has been applied shall fail to make and enforce any necessary regulations,

(*a*) Words "Board of Health" are substituted for "Health Officer for the Colony" by Act No. 43, 1903, s. 10, post.

(*b*) See Act No. 43, 1903, s. 16, post,

which adds words to this par.

(*c*) That is to say (*semble*) notwithstanding the provisions of secs. 2 and 28, ante,

or if the Town Council shall fail, by its medical or other officers, to carry out efficiently the objects of this Act, it shall be lawful for the Governor in Council to make any such regulations and enforce the same, and generally to carry out the objects of this Act in such borough in such manner and by such persons as he may direct :

Act 44, 1901.

Provided that no greater charge than one-eighth of the borough revenues for the preceding municipal year shall in any one year be placed upon the borough revenues by, or by reason of, anything done under the authority of this section, and any greater cost shall be defrayed from the general revenue of the Colony.

Limit of charges to be defrayed from borough revenues.

40. Save as in the preceding section specially excepted, the cost of the administration and execution of this Act in either of the said boroughs, and any liabilities arising therefrom, shall be borne by the revenues of the said boroughs respectively.

Cost of Act in either borough

41. In any municipal borough other than those of Pietermaritzburg and Durban, and any township constituted under Law No. 11, 1881, this Act shall be carried out as in other parts of the Colony, subject to the special provisions hereinafter set forth. Such boroughs and townships are in the following sections referred to as towns, and the Town Council of such borough, and the Local Board of such township, are together referred to as the town authority.

Administration of Act in other towns.

42. The Governor in Council may authorise the town authority to make and enforce in the ordinary manner by-laws for any specified purposes for which the Governor in Council is empowered to make regulations, and may attach any conditions to the exercise of such powers.

By-laws.

Contraventions of the by-laws made under this section shall be cognisable and punishable as hereinbefore provided in respect to by-laws of Pietermaritzburg and Durban.

43. The Governor in Council may also arrange for entrusting to the town officers any of the powers and authority given by this Act to District Health Officers or to Inspectors or other officers, or may make such arrangements as are suitable for carrying out this Act in harmony with the institutions of the town.

Delegation of powers to town officers : arrangements for administration of Act.

44. Any Order of Council made under the preceding sections may from time to time be varied or renewed by a later order, and may be revoked, but without prejudice to anything done or to any obligation or liability which may have been incurred.

Varying, renewing, or revoking Order in Council.

45. If at any time the town authority fails to carry out the objects of this Act in a satisfactory manner, the Governor in Council may direct any necessary action to be taken without reference to the powers or authority delegated to the town.

Action in case of default by town authorities.

Act 44, 1901.

Cost of administration of Act in towns.

46. The cost of the administration and execution of this Act in a town, whether under the ordinary powers or under the powers deputed to the town, and any liability arising therefrom, shall be defrayed from the town revenues :

Provided that no charge exceeding in the whole during any one year one-eighth of the town revenues for the preceding municipal year shall be placed upon the town revenues in respect of anything done by order of Government, and not by the town authorities or officers.

Recovery of expenses.

47. Any expenses which by this Act are required to be borne by the revenues of a borough or township shall be recoverable by the Minister in any competent Court.

Powers of boroughs and townships not affected.

48. Nothing in this Act shall be deemed to abrogate, lessen or affect the powers conferred upon any municipal borough or township by any other Law or Act, save so far as they may be inconsistent with this Act.

PART V.

Compensation : Offences : Legal Proceedings.

Compensation for destruction of or injury to property.

49. If any property is destroyed or injuriously affected by or under the orders of any person exercising authority under this Act, or if any person is under the like authority deprived of the occupation or use of any dwelling, building or premises or of any other property, such person shall be entitled to compensation for such destruction or injury, or for the loss or damage directly caused by such deprivation, subject to the provisions hereinafter contained.

This section shall not be deemed to apply to the articles enumerated in Section 3 of Act No. 14, 1899, and compensation in respect thereof shall be payable as provided in Section 4 of the said Act (a).

Certain cases excluded from compensation: saving as to buildings.

50. The foregoing section shall not be deemed to entitle any person to compensation if the necessity for anything so done is caused by his disregard of this Act, or of any regulations or by-laws, or of any other law (b). or by the existence of a nuisance which under the ordinary law it would be his duty to abate :

Provided, however, that this exception shall not take away the right of any person to compensation for the destruction or

(a) This refers to the destruction "of any clothing, goods, or other articles considered likely to disseminate small-pox, or other infectious disease, as defined by proclamation." See tit. "PUBLIC HEALTH," Vol. 2.
(b) See words inserted here by Act No. 43, 1903, s. 17, post.

structural alteration or removal of a building of a permanent character, which had been built before the commencement of this Act, or which has since been built in conformity with the law.

Act 44, 1901.

51. When any building has been destroyed or any act has been done by which any interest or land is injuriously affected, questions respecting the adjustment of compensation between owners and other persons having interests by way of mortgage, tenancy or otherwise shall be determined according to the provisions of the Lands Clauses Consolidation Law of 1872.

Incorporation of terms of Lands Clauses Law.

52. For the purpose of deciding disputed claims for compensation, Magistrates shall have jurisdiction up to Two Hundred Pounds sterling, whether the cause of claim relates to movable or immovable property.

Jurisdiction of Magistrate.

53. Any such claim may, if the parties be willing, be brought before the Magistrate's Court by way of application upon the usual notice, or such notice may be waived by consent, and the Magistrate may, upon such application, hear and determine upon the claim.

Mode of procedure.

54. The contravention, infringement or wilful disobedience of any obligation or prohibition imposed by this Act, or by the regulations or by-laws thereunder, or of any order to which obedience is due as hereinbefore provided, shall be an offence.

What constitutes an offence.

55. All offences, save as is hereinbefore provided in regard to contraventions of by-laws, shall be cognisable in the Courts of Magistrates, and shall be punishable by fine not exceeding Fifty Pounds sterling, or by imprisonment, with or without hard labour, for any term not exceeding six months, or by both such fine and imprisonment as aforesaid, or by such imprisonment in default of the payment of a fine; or any such offence may be prosecuted by indictment in the Supreme Court, and upon conviction the offender shall be liable to a fine not exceeding Two Hundred Pounds sterling, or to imprisonment, with or without hard labour, for any period not exceeding two years, or to such imprisonment in default of the payment of a fine.

Punishment of offences.

56. If upon any representation made by a Mayor of a Borough, or the Chairman of a Local Board, it shall be made to appear to the Attorney-General that an offence has been committed against the by-laws under this Act, and that by reason of the gravity of the offence, or the public danger arising therefrom, or from the evil example thereof, it is desirable that the offence should be prosecuted in the same manner as a public crime, it shall be lawful for the Attorney-General to direct a prosecution against the accused person, and to prosecute the offence by way of indictment in the same manner as a contravention of this Act; and in any such proceedings the written direction given by him

Indictment in certain cases for offences against by-laws.

Act 44, 1901. for the prosecution, or the indictment signed by him, shall be conclusive evidence that the prosecution was duly instituted according to the requirements of this section.

Other prosecutions not barred.

57. A prosecution or conviction under this Act shall not prejudice any other criminal prosecution to which the offender would otherwise be liable, provided that he be not twice punished for the same act.

Decision as to authority of District Health Officers: compensation.

58. If any question shall arise whether an order given or any act done or directed by a District Health Officer is lawful or not, the question shall in the first instance be referred to the Health Officer for the Colony, whose decision may be brought in review before the Magistrate by either party by way of motion upon notice, and the decision of the Magistrate shall in all cases be subject to an appeal to the Supreme Court :

Provided always that :—

(a) If the Health Officer deems the matter to be of great urgency, he may insist upon the order being complied with, or the act carried out at once, and such instruction shall be promptly complied with ;

(b) If upon any subsequent application to a Magistrate the Health Officer for the Colony shall state in writing that he considers the order or act to be of urgent necessity, the Magistrate shall not have power to make any order interfering with the execution of such order, or the carrying out of such act ;

Provided that this provision shall not be deemed to restrict the powers of the Supreme Court ;

(c) If by any final decision the order appealed from shall be declared to be unlawful, the person affected thereby shall be entitled to compensation from the public revenue for any direct loss or injury sustained.

Condemnation by Health Officer is subject to decision of law courts.

59. If anything shall be condemned by a Health Officer as being a nuisance or as coming within any prohibition or restriction contained in this Act, or the regulations, and if a question shall arise whether it is so or not, the matter shall be proper for decision by the Courts of law according to their respective jurisdictions, subject, however, to the like provisions as are contained in the foregoing section.

Special provisions for enforcement of orders of Health Officer in time of public danger.

60. If any question shall arise whether any regulation made by the Governor in Council is within the authority of this Act, or as to the lawfulness or authority of any act or order of a Health Officer, and if a certificate under the hand of the Minister is presented to any Court before which such question is brought, that in the opinion of the Government there is urgent need in

the public interest for such regulation, act or order, the Court shall not have any power to make any order interfering with the enforcement of such regulation or order, or the carrying out of such act. **Act 44, 1901.**

Any such question shall be deemed to be brought before a Court if any suit, appeal, or application is made in which the validity or lawfulness of a regulation, order or act is either directly or indirectly brought into question.

This section shall not be in force unless the Governor shall at any time by proclamation, declare that public danger to the Colony exists by reason of the existence or threatened outbreak of epidemic or infectious disease; and, thereafter, this section shall be in force until such Proclamation shall have been revoked (a). **Section not to be in force except upon proclamation.**

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Act No. 43, 1903.

“To continue, with certain amendments, the Public Health Act 1901.”

[21st November, 1903.]

WHEREAS by Act No. 1, 1902, provision has been made for the continuance in force until the 31st day of December, 1903, of Act No. 44, 1901, known as the Public Health Act, 1901 :

AND WHEREAS it is expedient that the said Act No. 44, 1901, should be continued in force, with certain amendments, until the 31st day of December, 1904 :

(a) The effect of the last par. appears to be that the section expires simultaneously with the revocation of the proclamation which brings it into opera-

tion. The revival of the section after such expiry could, it is submitted only be effected by re-enactment.

Act 43, 1903.

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Continuation
in force of
Public Health
Act, 1901, as
amended.

1. Act No. 44, 1901, known as the Public Health Act, 1901, and hereinafter referred to as the principal Act, shall, as amended by this Act, remain in force and operation from and after the 31st day of December, 1903, until the 31st day of December, 1904.

Repeal and
re-enactment
of Section 5 of
principal Act.

2. Section 5 of the principal Act shall be repealed and the following section shall be substituted therefor:—

The Health Officer for the Colony shall be the Head of the Department of Public Health, and shall exercise the authority of his office, subject at all times to any directions of the Board of Health.

District Health Officers shall be subject to the Health Officer for the Colony.

The Health Officer for the Colony may, in his discretion, exercise any of the powers of a District Health Officer in any part of the Colony.

Sanitary Inspectors shall be subject to the authority of the District Health Officers.

Repeal and
re-enactment
of Section 6 of
principal Act.

3. Section 6 of the principal Act shall be repealed, and the following section shall be substituted therefor:—

Board of
Health.

A Board of Health shall be formed which shall consist of nine members (a). The Health Officer for the Colony shall be a member *ex officio*. The remaining eight members shall be appointed by the Governor in Council, four of whom shall be registered medical practitioners nominated by the Medical Council.

Such members shall be appointed for three years, at the end of which time they shall retire, but shall be eligible for re-appointment.

Appointed members shall be removable at pleasure by the Governor in Council.

The first meeting of the Board shall be held on a day to be fixed by the Minister, which shall be duly notified.

At the first meeting a Chairman shall be elected, and thereafter the Chairman shall be elected annually in the month of July.

(a) Amended by Act No. 8, 1905, s. 2, post.

Five members of the Board shall form a quorum.

Act 43, 1903.

The duties of the Board shall be to assist the Government with its advice in all matters affecting or likely to affect the public health.

The Board shall make regulations providing for the holding of meetings and procedure generally, which regulations shall be approved by the Governor in Council.

Members of the Board, in addition to free conveyance to and from the place of meeting, shall be paid such fees for attendance as the Governor may decide.

4. The words "the Governor in Council" occurring in Sections 8 and 24 of principal Act shall be expunged, and the words "the Governor with the advice of the Board of Health" shall be substituted therefor.

Amendment of Sections 8 and 24 of principal Act.

5. It shall be lawful for a District Health Officer, by order of the Board of Health, to declare unfit for human habitation, and to order the closing of any dwellings, huts, shanties, tents or barracks, whenever they shall be satisfied that an adequate supply of drinking water is not available within a reasonable distance for the inmates thereof. After the closing thereof no dwelling, hut, shanty, tent, or barrack shall be again used for human habitation unless and until the Board of Health shall be satisfied upon the report of the District Health Officer that an adequate supply of drinking water has been made available.

Power of Health Officer to close certain habitations.

6. The circumstances under which any special order shall have been made under Section 10 of the principal Act shall, upon being reported to the Health Officer for the Colony, be reported by him to the Board of Health at its next meeting.

Reports to Board of Health.

7. Any person convicted of an offence defined by Section 14 of the principal Act shall be liable to a fine not exceeding Fifty Pounds sterling, or to imprisonment with or without hard labour for any term not exceeding six months, or by both fine and imprisonment as aforesaid, or by such imprisonment in default of the payment of a fine. The said Section shall be amended accordingly.

Penalty for certain offences.

8. Section 17 of the principal Act shall be repealed, and the following Section shall be substituted therefor :—

Medical practitioners, duties of.

Every medical practitioner shall forthwith, on becoming aware that any patient visited by him is suffering from an infectious or epidemic disease, send to the District Health Officer a certificate in the form which may be prescribed stating the name and residence of the patient, and the disease from

Act 43, 1903.

which, in the opinion of the medical practitioner, the patient is suffering.

Penalty for default.

If any medical practitioner shall fail to promptly give such certificate to the District Health Officer, he shall be liable, upon conviction by the Magistrate, to a fine not exceeding Twenty Pounds sterling.

If any such fine shall not be paid within the space of seven days, the Magistrate may cause the same to be levied on the movable property of the person so convicted.

9. Section 19 of the principal Act shall be repealed and the following section shall be substituted therefor:—

Duties of householder or occupier of premises.

It shall be the duty of any householder, or the occupier of any hut, shanty, or tent, in whose house, hut, shanty or tent, or on whose premises any case or suspected case of infectious or epidemic disease shall occur, to at once report the same to the proper authority, that is to say in the Boroughs of Pietermaritzburg and Durban and other boroughs and townships to the Town Clerk, and elsewhere to the District Health Officer. He shall at once report to the same authority any unusual mortality or sickness among rats or other vermin, or among domestic animals.

Any person who knowingly fails to make such a report with all reasonable promptitude shall be liable upon conviction to a fine not exceeding Ten Pounds Sterling, or in default of payment to imprisonment, with or without hard labour, for any term not exceeding three months.

Amendment of Sections 20, 21, 25, and 37 of principal Act.

10. The words "Board of Health" shall be substituted for the words "Health Officer for the Colony," wherever occurring in Sections 20, 21, and 25, and the 5th line of Section 37 of the principal Act (a).

Hospitals may be established.

11. Section 23 of the principal Act shall be repealed, and the following section shall be substituted therefor:—

The Minister may from time to time, with the advice of the Board of Health, provide buildings to be used as hospitals for the treatment therein of infectious or epidemic diseases, and may place such hospitals

(a) It will be noticed that in secs. 20 and 37 there is no such expression as "Health Officer for the Colony." The reference is apparently to "Health Officer of the Colony" in these cases.

under such management and discipline as the Minister with the advice of the Board of Health shall direct. **Act 43, 1903.**

12. The following clause shall be added (a) to Sub-section (f) of Section 25 of the principal Act:—

If the owner shall fail to forthwith carry out such alterations or other work, the Minister, or any Town Council or Town authority, acting under Section 33 or Section 43, may appoint any person or persons to enter upon the premises and carry out such work or alterations, and the cost thereof shall be recovered from the owner on the suit of the Minister, or of any Town Council or Town authority, as the case may be.

Regulations regarding alterations to premises.

13. The following sub-section shall be added to Section 25 of the principal Act:—

(h) For enquiry into the cause of death of any person, whether the cause of such death be certified by a medical practitioner or not, and for the ordering of *post-mortem* examinations when necessary, and for forbidding burial except on the certificate of any officer appointed for the purpose.

Regulations regarding enquiry and post-mortem examinations.

This clause shall not be deemed to affect or in any way relate to cases under enquiry by a Magistrate in the administration of the criminal law.

14. The words "cease to occupy or" occurring in the first line of Section 27 of the principal Act shall be expunged.

Amendment of Section 27 of principal Act.

15. The words "of the Board of Health" shall be inserted after the word "authority" occurring in the first line of the second paragraph of Section 33 of the principal Act.

Amendment of Section 33 of principal Act.

16. The following words shall be added to the first paragraph of Section 38 of the principal Act:—

Amendment of Section 38 of principal Act.

A report of such inspection shall be made by the Health Officer to the Board of Health at its next meeting.

17. The words "or by his neglect of reasonable precautions" shall be inserted after the words "or of any other law" occurring in the fourth line of Section 50 of the principal Act.

Amendment of Section 50 of principal Act.

(a) The clause would seem rather to require to be inserted immediately before the proviso in the sub-sec. referred to.

Act No. 9, 1904.

“To continue, with amendments, the operation of the Public Health Act, 1901.”

[1st July, 1904.]

WHEREAS by Act No. 43, 1903, provision has been made for the continuance in force, with certain amendments, until the 31st day of December, 1904, of Act No. 44, 1901, known as the “Public Health Act, 1901,” and it is expedient that the said Act so amended as aforesaid should be continued in force until the 31st day of December, 1905 :

BE IT THEREFORE ENACTED by the King’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

Continuation
and amend-
ment of Act
44, 1901.

1. Act No. 44, 1901, known as the “Public Health Act, 1901,” as amended by Act No. 43, 1903, shall be and remain in force and operation from and after the 31st day of December, 1904, until the 31st day of December, 1905.

Appointment
of substitutes
on Board.

2. If any member of the Board of Health is prevented by absence from the Colony or other cause from attending to his duties as a member of the Board, the Governor may appoint a person to act in his stead. In making such an appointment, regard shall be had to the requirements of Section 3 of Act No. 43, 1903, in respect to the membership of the Board.

Act No. 8, 1905.

“To continue with amendments, the Public Health Act, 1901.”

[25th June, 1905.]

WHEREAS by Act No. 9, 1904, provision is made for the continuance in force until the 31st day of December, 1905, of the Public Health Act, 1901, and it is expedient that the said Act, with certain amendments, should be continued in force until the 31st day of December, 1906 :

Public Health
Act continued.

BE IT THEREFORE ENACTED by the King’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal as follows :—

1. Act No. 44, 1901, known as the Public Health Act, 1901, as amended by subsequent Acts, shall be and remain in force and operation from and after the 31st day of December, 1905, until the 31st day of December, 1906.

2. The Government Bacteriologist shall be *ex officio* a member of the Board of Health, which shall hereafter consist of ten members instead of nine. Section 6 of the Public Health Act, 1901, as re-enacted by Act No. 43, 1903, is hereby amended accordingly.

Act 8, 1905.

Government Bacteriologist, to be a member of Board of Health,

Act No. 39, 1906.

"To continue, with amendments, the Public Health Act, 1901."

[25th August, 1906.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. Act No. 44, 1901, known as the "Public Health Act, 1901," as amended by subsequent Acts, and by this Act, shall be and remain in force and operation until the 31st day of December, 1907.

Continuation of Act 44, 1901.

2. If at any time the Colony or any part or parts thereof shall be affected by any epidemic or infectious disease, the Governor in Council may, by an Order published in the *Natal Government Gazette*, prohibit, subject to the provisions of this Act and to such conditions and exceptions as may be contained in the Order, or as may be provided by the Regulations hereunder, the export from the Colony or removal from the part or parts of the Colony so affected, of all such articles as may be specified in the Order.

On outbreak of epidemic, Governor may prohibit export of articles.

3. After the publication of the said Order, and until it shall be revoked by a like Order, none of the articles therein mentioned shall be exported from the Colony or removed from any part or parts thereof so affected, as the case may be, unless such export or removal shall have been authorised in writing by the Health Officer for the Colony, or by an officer appointed by him for that purpose.

Health officer may authorise export of prohibited articles.

Whilst any such Order remains in force, none of the articles or things enumerated therein shall be received for export or removal, as the case may be, by any person or persons whomsoever, except on production of the authority hereinbefore referred to.

4. The Governor, with the advice of the Board of Health, may from time to time make such Regulations as may be

Regulations may be framed.

Act 39, 1906. necessary for the proper carrying out of the foregoing provision, and such Regulations may make provision amongst other things for:—

- (a) Notice of intended exportation or removal of any such articles or things being given to any officer of the Public Health Department mentioned in the Regulations;
- (b) inspection of the said articles or things;
- (c) disinfection of such of the said articles or things as the Health Officer for the Colony or other officer appointed by him may deem to be infected or likely to convey infection of any infectious or epidemic disease.

Governor may require all persons departing from colony to present themselves for medical examination.

5. The Governor in Council may by the same or any like Order require all persons intending to depart from the Colony by land or sea to present themselves for medical examination before departure at such times and places as may be appointed by the Health Officer for the Colony; and from and after such notification no person shall depart from the Colony without written authority under the hand of the Health Officer for the Colony or any officer appointed by him for the purpose.

The Regulations under this Act may make any necessary provision for the proper carrying out of this section, and amongst other things for the disinfection of the personal effects of any persons intending to depart from the Colony.

Regulations may be made respecting importation and sale of articles intended for human food or drink.

6. The Governor in Council may make regulations in respect of the importation from without the Colony and of sale therein of all articles intended for consumption as human food or drink. The onus of proving that any article is not so intended shall rest on the importer or on the person selling or attempting to sell such article, or keeping it on his premises.

Such regulations may provide for:—

- (a) Inspection of any article either at the time of arrival in the Colony or after arrival therein, and for the condemnation and destruction of any article found to be unfit for human food or drink;
- (b) taking of samples of any articles for examination subject to payment of their value if found to be sound and fit for human food or drink;
- (c) prohibiting the importation of any such article except upon prior production of a properly authenticated certificate. The regulations may prescribe all particulars relative to such certificates and the authorities by whom they shall be granted, and

may require that they shall state the precise place of origin of any such article and that the factory or place in which it has been prepared and packed is in all respects properly maintained and conducted, and that the material itself has been inspected and found to be sound and fit for human food or drink ;

- (d) the prohibition of the importation of consignments of such articles from any particular factory or place, either for a specified time or until the prohibition is removed ;
- (e) the appointment of officers with authority to enforce the requirements of the regulations ;
- (f) any other matter which may be necessary to prevent the introduction and sale of articles unfit for human food or drink.

7. The provisions of Section 6 hereof shall extend to tobacco, cigars, cigarettes, and other preparations of tobacco, in the same manner as to articles intended for consumption as human food or drink.

Tobacco,
cigars, &c.

8. The contravention of any of the provisions of this Act, or of the Regulations thereunder, may be tried and punished as provided in the Public Health Act, 1901.

Contra-
ventions.

PUBLIC HOLIDAYS.

[See "HOLIDAYS."]

PUBLIC IMPROVEMENTS.

Act No. 23, 1906.

“ To enable the Government to acquire land for certain public purposes.”

[31st July, 1906.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Power to Governor to purchase land required for public purpose.

1. Whenever the Governor in Council shall by resolution declare that any land is required for a public purpose mentioned in the schedule of this Act, the Governor shall thereupon be empowered, subject to the exceptions and conditions hereinafter contained, to purchase and take such land, or to acquire it by exchange or otherwise.

Incorporation of Law 16, 1872.

2. The Lands Clauses Consolidation Law, 1872, except as is otherwise provided, shall be incorporated with this Act.

Exceptions from operation of Act.

3. The following shall be excepted from the operation of this Act:—

- (a) All lands belonging to His Majesty the King.
- (b) Streets, market places, and the like public places of any town or village.
- (c) Lands appropriated and used for churches and other religious purposes; lands used for schools, hospitals, cemeteries, and charitable and benevolent institutions, with as much adjacent land as is actually used in connection with any such church or other purpose as aforesaid.
- (d) Lands occupied by the buildings, works, and undertakings of any town council, local board, village board, or other public authority; parks, libraries, show grounds, and all other lands belonging or leased to trustees for public purposes, and actually employed in the purposes of such trust.

The above exceptions shall not extend to lands which, though belonging to any public body or trustees are unused, or let to hire, or used otherwise than directly for the works, undertakings, or other objects of such body or institution.

Deposit need not be made with Master.

4. Nothing in the Lands Clauses Consolidation Law, 1872, shall be deemed to require a deposit to be made by the Government with the Master of the Supreme Court in respect of the land taken or acquired under this Act.

5. In any proceedings relating to land taken or acquired for public purposes under this Act, an extract from the records of the Executive Council, certified by the Clerk to the Executive Council, containing a resolution relative to the purchase, taking, or acquisition of the land, shall be conclusive evidence of the fact of such resolution.

Act 23, 1906.

Evidence of
resolution of
Executive
Council.

SCHEDULE.

Schools, hospitals, post or telegraph offices, police stations, court houses, gaols, public offices, armouries, magazines, quarters, barracks, laagers, rifle ranges, and generally any buildings which may be needed for the use of any department of the public service, together with such land as the Governor in Council may deem to be reasonably proper to be attached to any of the above-mentioned buildings, having regard to their purpose.

PUBLIC LOANS.

[See "LOANS."]

QUARANTINE.

[See "ANIMALS (DISEASES)"; "PUBLIC HEALTH."]

Omitted from end of Sec. 3, supra.

In the event of the Town Council of any Borough or the Local Board of any Township having by vote reserved any particular piece or pieces of land in such Borough or Township respectively for any specific public purpose or purposes such land shall not be purchased or acquired under the provisions of this Act by virtue of any resolution of the Governor in Council passed subsequently to such vote.

RABIES.

[See "DOGS."]

RAILWAYS.

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Act No. 36, 1901.

"To empower the Governor to make, maintain, and equip a Line of Railway from Pietermaritzburg to the Border of the Colony of the Cape of Good Hope."

[26th August, 1901.]

WHEREAS it is expedient that the Railway hereinafter described should be constructed :

AND WHEREAS certain plans showing generally the direction and route of the said Railway have been deposited at the Offices

of the Clerks of the Legislative Council and Legislative Assembly before the passing of this Act : **Act 36, 1901.**

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. This Act may be cited as the "Natal-Cape Railway Act, 1901." **Short Title.**

2. In this Act the expression "the Railway" means the line of Railway authorised by this Act. **Meaning of Railway.**

3. The Governor shall be a Corporation for the purposes of this Act, and shall be entitled and competent to take, hold, and dispose of lands and other property. **Governor to be a Corporation for purposes of Act.**

4. The Lands Clauses Consolidation Law, 1872, except as varied by this Act, is incorporated with this Act. **Incorporation of Law 16, 1872.**

5. The Governor may make and maintain in the lines according to plans deposited, or in such of the lines and with such deviations from the deposited plans as the Governor shall think desirable, while preserving the general direction of the Railway, as shown on the same plans, the Railway hereinafter mentioned, with all proper stations, sidings, approaches, passing places, electric telegraphs, signals, works, and conveniences connected therewith respectively; and may so make and maintain the same upon such of the lands shown in the deposited plans, or upon such other lands as may be required for the purpose; and may enter upon, take, and use permanently or temporarily all such lands as aforesaid as may be so required. All waste lands of the Crown which may be required for the Railway, or any purpose connected therewith, may be taken and used without any charge or payment for the same. **Construction of Railway authorised.**

6. The Railway authorised by this Act is as under:— **Taking of Crown Lands.**

A line of Railway commencing by a junction with the Main Line of the Natal Government Railways at Pietermaritzburg, and ending at a point at or near to Riverside, on the border of the Colonies of Natal and the Cape of Good Hope. **Description of Railway**

7. The Governor is hereby empowered to construct the Railway, or any part or parts thereof, either departmentally or by a contract or contracts, or partly in the one way and partly in the other, according as he shall deem it most expedient. **Construction departmentally, or by contract.**

8. For the purpose of the construction of the Railway or any part thereof by contract, the Governor may enter into a contract or contracts for the execution of the works required for the above-mentioned Railway, that is to say:— **Contracts for works.**

1st. For the construction of the whole of the works

Act 36, 1901.

required for the above-mentioned line up to formation level, and including the provision and laying of all ballast, the laying of all permanent way material, and the erection and provision of all fencing which Government may order, together with the maintenance of the whole of the aforesaid works for a period of twelve months after their completion.

2nd. For the purchase of all permanent way materials required for the construction of the aforesaid line.

3rd. For the provision and erection of all stations, station works, and works accessory thereto.

4th. For the purchase and erection of all electric telegraph material :

Provided that it shall be lawful for the Governor to fix and appoint the several sections to be constructed under any such contract, and the time to be allowed for their construction.

Gauge—single line.

9. The Railway shall be constructed as a single line on the gauge of 3 feet 6 inches, but the Governor may from time to time cause double lines to be constructed at such place or places on the course of the said Railway as he may think expedient.

Railway to be deemed a public road.

10. The Railway shall in respect of all Crown Lands heretofore alienated and granted by the Government in quitrent, or freehold, or leasehold, or any other tenure whatsoever, and in or over which the Railway or any part thereof shall be made, be deemed to be a road made or to be made for the public good by order of Government, and accordingly the proprietors of such lands shall not, except in the cases provided in their several title deeds, leases, deeds of grant, or other documents of title, be entitled to any compensation for the land taken for the purposes of the Railway: Provided that lands granted or reserved by the Crown for the purpose of any town or village through which the Railway may pass shall be deemed for the purposes of this Act to be Crown Lands heretofore granted, over which the Government had reserved the right to make roads for the public good by order of the Government: Provided further, that such portions of the Town Lands of the Borough of Pietermaritzburg as are not now alienated by the Town Council shall be deemed for the purposes of this Act to be Crown Lands heretofore granted over which the Colonial Government had reserved the right to make roads for the public good by order of the Government.

Governor may employ engineers, &c.

11. The Governor may employ all engineers, clerks, workmen, and other persons for the purposes of the said contract or

contracts, and for superintending the construction and maintenance thereunder of the Railway, and for the maintenance and working of the Railway until six months after completion, and pay to all or any such persons such salaries, wages, or remuneration as may from time to time be voted by Act of Supply.

Act 36, 1901.

12. The Governor may provide all workshops, materials, plant, engines, rolling-stock, machinery, and other things which he may consider requisite for the maintenance, equipment, and working of the Railway, or otherwise necessary or desirable in relation thereto.

Governor may provide plant, &c.

13. All materials, plant, engines, rolling-stock, and other things imported into the Colony from time to time, for the construction, maintenance, equipment, or working of the Railway, or for any purpose connected therewith, shall be free of import duty.

Materials exempted from Customs duty.

14. The Railway and electric telegraphs, and all stations, lands, works, property, and things belonging thereto, or held in connection therewith, shall be for ever exempt from all highway, municipal, police, and other local rates and taxes now or hereafter to be made or imposed.

Railway exempted from imposts.

15. The Governor, with the advice of the Executive Council, may, from time to time, appoint some fit person or persons to carry into effect the purposes of this Act, and may delegate to him or them all or any of the powers and authorities hereby conferred on the Governor, and may, from time to time, remove any person so appointed, and appoint another person in his stead.

Appointment of persons to carry out Act.

16. The Governor shall not be personally liable for any loss or damage arising from or caused by anything done under the authority of this Act.

Personal immunity of Governor.

Act No. 12, 1902.

“To authorise the construction of a Narrow Gauge Railway from Kearsney to Mapumulo.”

[23rd May, 1902.]

WHEREAS J. L. Hulett and Sons, Limited, of Kearsney in the County of Victoria, in the Colony of Natal, are desirous of constructing a Railway for the conveyance of passengers, goods, and merchandise, from a point on the Stanger and Kearsney Railway, near Kearsney, in the County of Victoria, to a point at

Act 12, 1902. or near Mapumulo, in the said County, to be worked by means of steam, electricity or other motive power :

AND WHEREAS it is expedient to authorise the said J. L. Hulett and Sons, Limited, to construct such Railway :

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

Short title.

1. This Act may be cited for all purposes as “The Kearsney and Mapumulo Railway Act, 1902.”

Authority to J. L. Hulett and Sons as a railway company.

2. The said J. L. Hulett and Sons, Limited, of Kearsney aforesaid, or their successors, administrators, and assigns (hereinafter called the “Company”), are hereby authorised and empowered to carry on, complete, and maintain the said intended Railway, according to the powers, rules, orders and directions hereinafter set forth and expressed for that purpose, and by that name shall sue and be sued and appear in all Courts of this Colony, and shall have and use a common seal with the name of the Company thereon.

Authority to make railway.

3. The Company shall, and they are hereby authorised by themselves, their deputies, agents, officers, and workmen, to make, complete, and maintain a Railway with proper works and conveniences adjoining thereto, or connected therewith, for the passage of wagons and other carriages to be propelled by steam, electricity, or other motive power, from a point on the Stanger and Kearsney Railway, near Kearsney, in the County of Victoria, to a point at or near Mapumulo, in the said County, as the same is shown on the Plans thereof, filed with the Clerk of the Legislative Council and the Clerk of the Legislative Assembly.

Taking of land.

4. The Company shall be entitled to enter upon and take possession of so much of the following lands as may be required for the purposes of the said Railway, and as shown on the plans before referred to, and to erect thereon all buildings, sidings, crossings, railway telegraph and the like, required in connection with the said Railway, namely :—

- (a) Lot 28, Umvoti, Victoria County.
- (b) Lot 44, Umvoti, Victoria County.
- (c) Lot 46, Umvoti, Victoria County.
- (d) Eglington.
- (e) Prospect.
- (f) Taurus.
- (g) Lange Spruit.
- (h) Umvoti Native Location.
- (i) Mapumulo (American) Mission Reserve.

(j) Umpumulo (Norwegian) Mission Reserve, being lands situate and lying north of the Umvoti River, in the said County of Victoria. **Act 12, 1902.**

5. The Railway hereby authorised shall be made upon a safe and reasonable gauge, and shall be laid and maintained in such a manner wheresoever it runs across any road or street used for traffic that the uppermost surface of the rails shall be on a level with the surface of the street or road. Gauge, construction, and maintenance.

6. If the Railway crosses any public road, whether now existing or which may hereafter be made, or any public right-of-way now existing, the Company, upon the request of the Minister of Lands and Works shall :— Road crossings

(a) Make and maintain such level crossings or other works as are necessary for the proper use of the road or right-of-way ;

(b) Erect such fences, creeps, or other appliances as may be necessary to prevent animals using the road from straying on the Railway :

Provided that no such request made by the Minister of Lands and Works shall require more to be done in the way of works and erections than is required under the Act No. 40 of 1899.

7. All such works, fences, and other things as aforesaid shall be of such kind, dimensions, and construction as shall be directed by the Chief Engineer of the Public Works Department, and shall be made and maintained to his satisfaction. If the Company shall neglect or fail to make and maintain in good order any such work, fence, or other thing, it shall be lawful for the said Engineer by himself or by any other person whom he may authorise, to enter upon the Railway and to do anything that may be necessary to make good the default of the Company, and the Company shall be liable to repay to the Government the whole cost of anything so done. Character of road crossings fences, &c.

8. The Company shall repair all damage done to a road or right-of-way, by or in consequence of any works in connection with the Railway, or by the use thereof. Injury to roads.

9. If any difficulty shall arise respecting the kind, dimensions, or construction of any crossing, fence, or other work in connection with a road or right-of-way, or as to the reasonableness of the requirements of the Chief Engineer of the Public Works Department, the same shall be determined by the Minister of Lands and Works. Determination of differences respecting road crossings, &c

10. The Company shall, upon the request of the owners or occupiers of the lands adjoining the Railway, make and maintain the following works for their accommodation :— Crossings and fences on private lands.

Act 12, 1902.

- (a) Such and so many crossings as shall be necessary for making good any interruptions caused by the Railway to the use of the lands.
- (b) Sufficient fences for separating the lands taken for the Railway from the adjoining lands, and for protecting cattle or other stock from straying upon the Railway: Provided that this section shall not be deemed to abrogate any contract by which any person may have agreed to forego the right to claim any such crossing or fence.

Provided that no such request made shall require more to be done in the way of works and erections than is required under the Act No. 40 of 1899.

Arbitration.

11. If any difference shall arise respecting any matter provided for in the preceding section it shall be determined by arbitration.

Opening railway.

12. The said Railway shall not be open for public traffic until it shall have been certified to be fit for such traffic by an Engineer to be appointed by the Governor.

Fares and charges.

13. The Company shall levy tolls and make charges for the conveyance of passengers, goods, merchandise, and others upon such Railway, such tariff of tolls and charges being subject to the approval of the Governor in Council. And the Governor in Council shall have full power and authority to revise and if necessary reduce or increase such tolls and charges from time to time: Provided, however, that the Company shall under no circumstances be required to convey goods or merchandise at a less rate than shall apply at the time to goods and merchandise conveyed on the Natal Government Railways at ordinary as distinguished from special rates.

Flanged wheels.

14. The Company may use on the Railway authorised by this Act, cars and carriages with flanged and other wheels, suitable to run on the prescribed rails, and, subject to the provisions of this Act, the Company shall have the exclusive use of the said Railway for cars or carriages with such wheels as may be suitable to run on the prescribed rails.

Motive power.

15. The cars, carriages, trucks, or other vehicles used on the said Railway may be propelled by animal, steam, or other motive power.

Liability for injuries.

16. The Company shall be answerable for all accidents, damages, and injuries happening through their wrongful act or default, or through the wrongful act or default of any person in their employment, by reason or in consequence of any of their works or of their engines or carriages, and shall save harmless all

road and other authorities, companies, or bodies, and their officers and servants, from all damages and costs in respect of such accidents, damages, and injuries. **Act 12, 1902.**

17. The Company may, subject to the approval of the Governor in Council, make by-laws with respect to **By-laws.**

The fares chargeable to passengers using the Railway and for the carriage of goods on the Railway authorised to be constructed under this Act, and for regulating the traffic thereon;

Frauds by passengers attempting to avoid payment of their fares;

The interference with or obstruction of any of the works authorised under this Act by any person;

The arrest and detention of offenders against any such by-laws;

The prohibiting of any person carrying, or requiring to be carried on the Railway, any goods which may be of a dangerous nature;

The prohibiting of any person using the Railway, or any portion thereof, unless duly authorised by the said Company;

And to impose any penalties for the breach of any such by-laws, provided that no penalty shall exceed a fine of £5 sterling, or in default of payment of any such fine, imprisonment with or without hard labour for a period not exceeding one month.

18. The Company shall be empowered to prosecute by any person whom they may appoint, any offenders against such by-laws, before the Magistrate of the Division in which such offence is committed. **Prosecution.**

19. The "Lands Clauses Consolidation Law" No. 16 of 1872, is, except when expressly varied by this Act, incorporated with and forms part of this Act. **Incorporation of Law 16, 1872.**

20. The Company shall be bound if required to furnish the Governor in Council with full particulars as to the cost of construction of the said Railway, and also of the revenue and expenditure of the same from time to time. **Government may require particulars of cost, revenue, &c.**

21. [Repealed by Act No. 34, 1904.]

22. Any such purchase shall be effected according to the provisions of the Law No. 16 of 1872: Provided **Terms of purchase.**

(a) That the purchase price shall be determined according to the value of the works to the Government at the time of purchase, without any addition in respect of compulsory purchase, statutory rights, goodwill,

Act 12, 1902.

or profits, save as is provided in sub-section (b); and

- (b) That there shall be added to the value ascertained as aforesaid, an amount as interest, equal to 5 per cent. per annum on the capital expended, if the works be purchased before completion, and if purchased at any time thereafter, an amount equal to 10 per cent. on the value ascertained as aforesaid.

Regulations
by Governor
in Council for
protection of
public.

23. The Governor in Council may from time to time make such regulations as he may deem expedient for securing the safety of the public from personal injury, or from fire or otherwise, and may from time to time rescind, alter, or repeal such regulations. Any regulations so made or amended by the Governor in Council, in pursuance of this section, shall have the like effect in every respect as if they had been included in this Act. Notice in writing shall be given by the Government to the Company of any such regulations, or of any repeal or alteration thereof at least a month before the regulation, repeal, or alteration is made by the Governor in Council.

Act No. 9, 1903.

“To authorise the construction, equipment, and working of a Line of Railway in the District of Vryheid.”

[8th July, 1903.]

WHEREAS a certain Line of Railway between Vryheid and the Border of Natal was in the year 1899 in course of construction for the Government of the late South African Republic, and remains incompleted at the present time:

AND WHEREAS the Territories of the South African Republic have become annexed to the British Dominion under the title of the Transvaal Colony:

AND WHEREAS certain portions of the Transvaal Colony, including the territory over which the aforesaid Railway passes, have been annexed to and now form part of the Colony of Natal:

AND WHEREAS, with the consent of His Majesty's High Commissioner for South Africa, acting on behalf of His Majesty the King, an agreement has been entered into between the Colonial Government of Natal and the firm of McLagan and

Maby Brothers for the completion and equipment of the said Railway, and it is desirable that the authority of Law should be given for the completion, equipment, maintenance, and working of the said Railway : **Act 9, 1903.**

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. This Act may be cited as "The Buffalo-Vryheid Railway Act, 1903." Short title.

2. In this Act the word "railway" means a line of railway beginning with a junction with the existing railway from Dundee at the Buffalo River and ending at or near to the town of Vryheid, following the route of the works already constructed. Meaning of Railway.

3. The Governor shall be a Corporation for the purposes of this Act, and shall be entitled and competent to take, hold, and dispose of lands and other property. Governor to be a Corporation for purposes of Act.

4. The Lands Clauses Consolidation Law, 1872, except as varied by this Act, is incorporated with this Act. Incorporation of Law 16, 1872.

5. The Governor may take all steps necessary for the completion of the railway with all proper stations, sidings, passing places, telegraphs, signals, works and conveniences connected therewith respectively, and may equip, maintain, and work the same, and may take and purchase any lands required for the purposes of the said railway. Governor authorised to complete construction of Railway.

6. The Governor may enter into contracts for the construction and equipment of the railway or any part or parts thereof. Construction by Contract.

The agreement entered into between the Colonial Government of Natal and Messieurs McLagan and Maby Brothers on the 12th day of March, 1903, for the completion and equipment of the Railway shall be deemed to be a contract entered into in pursuance of this Section.

7. The Railway shall be constructed as a single line on the gauge of 3 feet 6 inches, but the Governor may from time to time cause double lines to be constructed at such place or places on the course of the said Railway as he may think expedient. Gauge—Single Line.

8. The Governor, with the advice of the Executive Council, may, from time to time, appoint some fit person or persons to carry into effect the purposes of this Act, and may delegate to him or them all or any of the powers and authorities hereby conferred on the Governor, and may, from time to time, remove any person so appointed, and appoint another person in his stead. Appointment of Persons to carry out Act.

Any such appointment made prior to the passing of this Act shall be deemed to have been made under the authority of this Act.

Act 9, 1903.

Employment
of Engineers,
&c.

9. The Governor may employ all engineers, clerks, workmen, and other persons for the purposes of the said contract or contracts, and for superintending the construction and maintenance thereunder of the Railway, and for the maintenance and working of the Railway until six months after completion, and pay to all or any such persons such salaries, wages, or remuneration as may from time to time be voted by Act of Supply.

Governor may
provide plant,
&c.

10. The Governor may provide all workshops, materials, plant, engines, rolling-stock, machinery, and other things which he may consider requisite for the maintenance, equipment, and working of the Railway, or otherwise necessary or desirable in relation thereto.

Materials
exempted
from Customs
Duty.

11. All materials, plant, engines, rolling-stock, and other things imported into the Colony from time to time, for the construction, maintenance, equipment, or working of the Railway, or for any purpose connected therewith, shall be free of import duty.

Railway
exempted
from Imposts.

12. The Railway and electric telegraphs, and all stations, lands, works, property, and things belonging thereto, or held in connection therewith, shall be for ever exempt from all highway, municipal, police, and other local rates and taxes now or hereafter to be made or imposed.

Immunity of
Colonial
Government.

13. Nothing in this Act shall be deemed to impose upon the Colonial Government any liability in respect of any matter or ground of claim arising before the twentieth day of June, 1902, except such as may arise under any contract made as hereinbefore provided.

Act No. 45, 1903.

“To empower the Governor to make, maintain, and equip a Line of Railway from the North Shepstone Station to Umhlangeni River.”

[28th November, 1903.]

WHEREAS it is expedient that the Railway hereinafter described should be constructed :

AND WHEREAS certain plans showing generally the direction and route of the said Railway have been deposited at the Offices of the Clerks of the Legislative Council and Legislative Assembly :

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. This Act may be cited as the "Alfred County Railway Act, 1903." **Act 45, 1903.**
Short title.
2. In this Act the expression "the Railway" means the Line of Railway authorised by this Act. **Meaning of "Railway."**
3. The Governor shall be a Corporation for the purposes of this Act, and shall be entitled and competent to take, hold, and dispose of lands and other property. **Governor a Corporation for purposes of Act.**
4. The Lands Clauses Consolidation Law, 1872, except as varied by this Act, is incorporated with this Act. **Law 16, 1872.**
5. The Governor may make and maintain in the lines according to plans deposited, or in such of the lines and with such deviations from the deposited plans as the Governor shall think desirable, while preserving the general direction of the Railway, as shown on the same plans, the Railway hereinafter mentioned, with all proper stations, sidings, approaches, passing places, electric telegraphs, signals, works, and conveniences connected therewith respectively; and may so make and maintain the same upon such of the lands shown in the deposited plans, or upon such other lands as may be required for the purpose; and may enter upon, take, and use permanently or temporarily all such lands as aforesaid as may be so required. All waste lands of the Crown which may be required for the Railway, or any purpose connected therewith, may be taken and used without any charge or payment for the same. **Construction of railway authorised.**
Taking of Crown Lands.
6. The Railway authorised by this Act is as under:—
A line of Railway commencing by a junction with the existing line of Railway at or near the North Shepstone Station and ending at or near the mouth of the Umhlangeni River, in the County of Alfred. **Description of Railway.**
7. The Governor is hereby empowered to construct the Railway, or any part or parts thereof, either departmentally or by a contract or contracts, or partly in the one way and partly in the other, according as he shall deem it most expedient. **Construction departmentally or by contract.**
8. For the purpose of the construction of the Railway or any part thereof by contract, the Governor may enter into a contract or contracts for the execution of the works required for the above-mentioned Railway, that is to say:—
Contracts for Works.
- 1st. For the construction of the whole of the works required for the above-mentioned line up to formation level, and including the provision and laying of all ballast, the laying of all permanent way material, and the erection and provision of all fencing which Government may order, together

Act 45, 1903.

with the maintenance of the whole of the aforesaid works for a period of twelve months after their completion.

2nd. For the purchase of all permanent way materials required for the construction of the aforesaid line.

3rd. For the provision and erection of all stations, station works, and works accessory thereto.

4th. For the purchase and erection of all electric telegraph material:

Provided that it shall be lawful for the Governor to fix and appoint the several sections to be constructed under any such contract, and the time to be allowed for their construction.

Gauge—single line.

9. The Railway shall be constructed as a single line on the gauge of 3 feet 6 inches, but the Governor may from time to time cause double lines to be constructed at such place or places on the course of the said Railway as he may think expedient.

Railway to be deemed a public road.

10. The Railway shall in respect of all Crown Lands heretofore alienated and granted by the Government in quit-rent, or freehold, or leasehold, or any other tenure whatsoever, and in or over which the Railway or any part thereof shall be made, be deemed to be a road made or to be made for the public good by order of Government, and accordingly the proprietors of such lands shall not, except in the cases provided in their several title-deeds, leases, deeds of grant, or other documents of title, be entitled to any compensation for the land taken for the purposes of the Railway, and the amount of said compensation shall be determined in accordance with the provisions of the Law No. 19, 1875: Provided that lands granted or reserved by the Crown for the purpose of any town or village through which the Railway may pass shall be deemed for the purposes of this Act to be Crown lands heretofore granted, over which the Government had reserved the right to make roads for the public good by order of the Government.

Governor may employ engineers, &c.

11. The Governor may employ all engineers, clerks workmen, and other persons for the purposes of the said contract or contracts, and for superintending the construction and maintenance thereunder of the Railway until six months after completion, and pay to all or any such persons such salaries, wages, or remuneration as may from time to time be voted by Act of Supply.

Governor may provide plant, &c.

12. The Governor may provide all workshops, materials, plant, engines, rolling-stock, machinery, and other things which he may consider requisite for the maintenance, equipment, and

working of the Railway, or otherwise necessary or desirable in relation thereto. **Act 45, 1903.**

13. The Railway and electric telegraphs, and all stations, lands, works, property, and things belonging thereto, or held in connection therewith, shall be for ever exempt from all highway, municipal, police, and other local rates and taxes now or hereafter to be made or imposed. Railway exempt from imposts.

14. The Governor, with the advice of the Executive Council, may, from time to time, appoint some fit person or persons to carry into effect the purposes of this Act, and may delegate to him or them all or any of the powers and authorities hereby conferred on the Governor, and may, from time to time, remove any person so appointed, and appoint another person in his stead. Appointment of persons to carry Act into effect.

15. The Governor shall not be personally liable for any loss or damage arising from or caused by anything done under the authority of this Act. Immunity of Governor.

Act No. 46, 1903.

“To empower the Governor to make, maintain, and equip a Line of Railway from the Ennersdale Station to a point at or near the ‘Honger’s Poort’ Magistracy.”

[28th November, 1903.]

WHEREAS it is expedient that the Railway hereinafter described should be constructed :

AND WHEREAS certain plans showing generally the direction and route of the said Railway have been deposited at the Offices of the Clerks of the Legislative Council and Legislative Assembly :

BE IT THEREFORE ENACTED by the King’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. This Act may be cited as the “Upper Tugela Railway Act, 1903.” Short title.

2. In this Act the expression “the Railway” means the line of Railway authorised by this Act. Meaning of “Railway.”

3. The Governor shall be a Corporation for the purposes of this Act, and shall be entitled and competent to take, hold, and dispose of lands and other property. Governor to be a Corporation for purposes of Act.

4. The Lands Clauses Consolidation Law, 1872, except as varied by this Act, is incorporated with this Act. Incorporation of Law 16, 1872.

Act 46, 1903.Construction
of Railway
authorised.

5. The Governor may make and maintain in the lines according to plans deposited, or in such of the lines and with such deviations from the deposited plans as the Governor shall think desirable, while preserving the general direction of the Railway, as shown on the same plans, the Railway hereinafter mentioned, with all proper stations, sidings, approaches, passing places, electric telegraphs, signals, works, and conveniences connected therewith respectively; and may so make and maintain the same upon such of the lands shown in the deposited plans, or upon such other lands as may be required for the purpose; and may enter upon, take, and use permanently or temporarily all such lands as aforesaid as may be so required. All waste lands of the Crown which may be required for the Railway, or any purpose connected therewith, may be taken and used without any charge or payment for the same.

Taking of
Crown Lands.Description of
Railway.

6. The Railway authorised by this Act is as under:—

A line of Railway commencing by a junction with the existing line of Railway at or near the Ennersdale Station and ending at or near the “Honger’s Poort” Magistracy, on the North side of the Tugela River, in the County of Klip River.

Construction
department-
ally or by
contract.

7. The Governor is hereby empowered to construct the Railway, or any part or parts thereof, either departmentally or by a contract or contracts, or partly in the one way and partly in the other, according as he shall deem it most expedient.

Contracts for
works.

8. For the purpose of the construction of the Railway or any part thereof by contract, the Governor may enter into a contract or contracts for the execution of the works required for the above-mentioned Railway, that is to say:—

1st. For the construction of the whole of the works required for the above-mentioned line up to formation level, and including the provision and laying of all ballast, the laying of all permanent way material, and the erection and provision of all fencing which Government may order, together with the maintenance of the whole of the aforesaid works for a period of twelve months after their completion.

2nd. For the purchase of all permanent way materials required for the construction of the aforesaid line.

3rd. For the provision and erection of all stations, station works, and works accessory thereto.

4th. For the purchase and erection of all electric telegraph material:

Provided that it shall be lawful for the Governor to fix and

appoint the several sections to be constructed under any such contract, and the time to be allowed for their construction. **Act 46, 1903.**

9. The Railway shall be constructed as a single line on the gauge of 2 feet, or 3 feet 6 inches, as may be determined by the Governor and notified by him by Proclamation in the *Natal Government Gazette*. The Governor may from time to time cause double lines to be constructed at such place or places on the course of the said Railway as he may think expedient. Alternative gauge—single line.

10. The Railway shall in respect of all Crown Lands heretofore alienated and granted by the Government in quit-rent, or freehold, or leasehold, or any other tenure whatsoever, and in or over which the Railway or any part thereof shall be made, be deemed to be a road made or to be made for the public good by order of Government, and accordingly the proprietors of such lands shall not, except in the cases provided in their several title deeds, leases, deeds of grant, or other documents of title, be entitled to any compensation for the land taken for the purposes of the Railway, and the amount of compensation shall be determined in accordance with the provisions of the Law No. 19, 1875: Provided that lands granted or reserved by the Crown for the purpose of any town or village through which the Railway may pass shall be deemed for the purposes of this Act to be Crown Lands heretofore granted, over which the Government had reserved the right to make roads for the public good by order of the Government. Railway to be deemed a public road.

11. The Governor may employ all engineers, clerks, workmen, and other persons for the purposes of the said contract or contracts, and for superintending the construction and maintenance thereunder of the Railway, and for the maintenance and working of the Railway until six months after completion, and pay to all or any such persons such salaries, wages, or remuneration as may from time to time be voted by Act of Supply. Governor may employ engineers, &c.

12. The Governor may provide all workshops, materials, plant, engines, rolling-stock, machinery, and other things which he may consider requisite for the maintenance, equipment, and working of the Railway, or otherwise necessary or desirable in relation thereto. Governor may provide plant, &c.

13. The Railway and electric telegraphs, and all stations, lands, works, property, and things belonging thereto, or held in connection therewith, shall be for ever exempt from all highway, municipal, police, and other local rates and taxes now or hereafter to be made or imposed. Railway exempt from imposts.

14. The Governor, with the advice of the Executive Council, may, from time to time, appoint some fit person or persons to carry into effect the purposes of this Act, and may delegate to Appointment of persons to carry Act into effect.

Act 46, 1903. him or them all or any of the powers and authorities hereby conferred on the Governor, and may, from time to time, remove any person so appointed, and appoint another person in his stead.

Immunity of Governor.

15. The Governor shall not be personally liable for any loss or damage arising from or caused by anything done under the authority of this Act.

Act No. 16, 1904.

“ To empower the Governor to make, maintain, and equip a Line of Railway from or near Howick Station to or near the Village of Howick.”

[8th July, 1904.]

WHEREAS it is expedient that the Railway hereinafter described should be constructed :

AND WHEREAS certain plans showing generally the direction and route of the said Railway have been deposited at the Offices of the Clerks of the Legislative Council and Legislative Assembly :

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Natal, as follows :—

Short Title.

1. This Act may be cited as the “ Howick Branch Railway Act, 1904.”

Meaning of “ Railway.”

2. In this Act the expression “ the Railway ” means the line of Railway authorised by this Act.

Governor to be a Corporation for purposes of Act.

3. The Governor shall be a Corporation for the purposes of this Act, and shall be entitled and competent to take, hold, and dispose of lands and other property.

Incorporation of Lands Clauses Consolidation Law, 1872.

4. The Lands Clauses Consolidation Law, 1872, except as varied by this Act, is incorporated with this Act.

Construction of Railway authorised.

5. The Governor may make and maintain in the lines according to plans deposited, or in such of the lines and with such deviations from the deposited plans as the Governor shall think desirable, while preserving the general direction of the Railway, as shown on the same plans, the Railway hereinafter mentioned, with all proper stations, sidings, approaches, passing places, electric telegraphs, signals, works, and conveniences connected therewith respectively ; and may so make and maintain the same upon such of the lands shown in the deposited plans, or upon such other lands as may be required for the purpose ; and may enter upon, take, and use permanently or temporarily all

Taking of Crown Lands.

such lands as aforesaid as may be so required. All waste lands of the Crown which may be required for the Railway, or any purpose connected therewith, may be taken and used without any charge or payment for the same.

Act 16, 1904.

6. The Railway authorised by this Act is as under :—

A line of Railway commencing by a junction with the existing line of Railway at or near the Howick Station and ending in or near the Village of Howick.

Description of Railway.

7. The Governor is hereby empowered to construct the Railway, or any part or parts thereof, either departmentally or by a contract or contracts, or partly in the one way and partly in the other, according as he shall deem it most expedient.

Construction departmentally or by contract.

8. For the purpose of the construction of the Railway or any part thereof by contract, the Governor may enter into a contract or contracts for the execution of the works required for the above-mentioned Railway, that is to say :—

Contracts for works.

1st. For the construction of the whole of the works required for the above-mentioned line up to formation level, and including the provision and laying of all ballast, the laying of all permanent way material, and the erection and provision of all fencing which Government may order, together with the maintenance of the whole of the aforesaid works for a period of twelve months after their completion.

2nd. For the purchase of all permanent way materials required for the construction of the aforesaid line.

3rd. For the provision and erection of all stations, station works, and works accessory thereto.

4th. For the purchase and erection of all electric telegraph material :

Provided that it shall be lawful for the Governor to fix and appoint the several sections to be constructed under any such contract, and the time to be allowed for their construction.

9. The Railway shall be constructed as a single line on the gauge of 3 feet 6 inches, but the Governor may from time to time cause double lines to be constructed at such place or places on the course of the said Railway as he may think expedient.

Gauge—single line.

10. The Railway shall in respect of all Crown Lands heretofore alienated and granted by the Government in quit-rent, or freehold, or leasehold, or any other tenure whatsoever, and in or over which the Railway or any part thereof shall be made, be deemed to be a road made or to be made

Railway to be deemed a public road.

Act 16, 1904. for the public good by order of Government, and accordingly the proprietors of such lands shall not, except in the cases provided in their several title deeds, leases, deeds of grant, or other documents of title, be entitled to any compensation for the land taken for the purposes of the Railway, and the amount of said compensation shall be determined in accordance with the provisions of the Law No. 19, 1875: Provided that such portions of the Commonage of Howick as are not now alienated shall be deemed for the purposes of this Act to be Crown Lands heretofore granted, over which the Government had reserved the right to make roads for the public good by order of the Government.

Governor may employ engineers, &c.

11. The Governor may employ all engineers, clerks, workmen and other persons for the purposes of the said contract or contracts, and for superintending the construction and maintenance thereunder of the Railway, and for the maintenance and working of the Railway, until six months after completion, and pay to all or any such persons such salaries, wages or remuneration as may from time to time be voted by Act of Supply.

Governor may provide plant, &c.

12. The Governor may provide all workshops, materials, plant, engines, rolling-stock, machinery, and other things which he may consider requisite for the maintenance, equipment, and working of the Railway, or otherwise necessary or desirable in relation thereto.

Railway exempt from imposts.

13. The Railway, and electric telegraphs, and all stations, lands, works, property, and things belonging thereto, or held in connection therewith, shall be for ever exempt from all highway, municipal, police, and other local rates and taxes now or hereafter to be made or imposed.

Appointment of persons to carry out Act.

14. The Governor, with the advice of the Executive Council, may, from time to time, appoint some fit person or persons to carry into effect the purposes of this Act, and may delegate to him or them all or any of the powers and authorities hereby conferred on the Governor, and may, from time to time, remove any person so appointed, and appoint another person in his stead.

Personal immunity of Governor.

15. The Governor shall not be personally liable for any loss or damage arising from or caused by anything done under the authority of this Act.

Act No. 17, 1904.

“To empower the Governor to make, maintain, and equip a line of railway from Esperanza Station to the Natal-Cape Railway Line.”

[8th July, 1904.]

WHEREAS it is expedient that the Railway hereinafter described should be constructed :

AND WHEREAS certain plans showing generally the direction and route of the said Railway have been deposited at the Offices of the Clerks of the Legislative Council and Legislative Assembly :

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. This Act may be cited as “The Stuartstown Railway Act, 1904” (a). Short Title.

2. In this Act the expression “the Railway” means the lines of Railway authorised by this Act. Meaning of “Railway.”

3. The Governor shall be a Corporation for the purposes of this Act, and shall be entitled and competent to take, hold, and dispose of lands and other property. Governor to be a Corporation for purposes of Act.

4. The Lands Clauses Consolidation Law, 1872, except as varied by this Act, is incorporated with this Act. Incorporation of Lands Clauses Consolidation Law, 1872.

5. The Governor may make and maintain in the lines according to plans deposited, or in such of the lines and with such deviations from the deposited plans as the Governor shall think desirable, while preserving the general direction of the Railway, as shown on the same plans, the Railway hereinafter mentioned, with all proper stations, sidings, approaches, passing places, electric telegraphs, signals, works, and conveniences connected therewith respectively; and may so make and maintain the same upon such of the lands shown in the deposited plans, or upon such other lands as may be required for the purpose; and may enter upon, take, and use permanently or temporarily all such lands as aforesaid as may be so required. All waste lands of the Crown which may be required for the Railway, or any purpose connected therewith, may be taken and used without any charge or payment for the same. Construction of Railway authorised.

6. The Railway authorised by this Act is as under :— Taking of Crown Lands.

A line of Railway commencing at Esperanza Station on the Umzinto Branch Railway, and terminating at Description of Railway.

(a) See Act No. 10, 1905, post.

Act 17, 1904.

the Cape-Natal Railway line now under construction at a point between Cart Hill and Donnybrook.

Construction departmentally or by contract.

7. The Governor is hereby empowered to construct the Railway, or any part or parts thereof, either departmentally or by a contract or contracts, or partly in the one way and partly in the other, according as he shall deem it most expedient.

Contracts for works.

8. For the purpose of the construction of the Railway or any part thereof by contract, the Governor may enter into a contract or contracts for the execution of the works required for the above-mentioned Railway, that is to say:—

1st. For the construction of the whole of the works required for the above-mentioned line up to formation level, and including the provision and laying of all ballast, the laying of all permanent way material, and the erection and provision of all fencing which Government may order, together with the maintenance of the whole of the aforesaid works for a period of twelve months after their completion.

2nd. For the purchase of all permanent way materials required for the construction of the aforesaid line.

3rd. For the provision and erection of all stations, station works, and works accessory thereto.

4th. For the purchase and erection of all electric telegraph material:

Provided that it shall be lawful for the Governor to fix and appoint the several sections to be constructed under any such contract, and the time to be allowed for their construction.

Gauge—single line.

9. The Railway shall be constructed as a single line on a gauge of two feet, but the Governor may from time to time cause double lines to be constructed at such place or places on the course of the said Railway as he may think expedient.

Railway to be deemed a public road.

10. The Railway shall, in respect of all Crown Lands heretofore alienated and granted by the Government in quit-rent, or freehold, or leasehold, or any other tenure whatsoever, and in or over which the Railway or any part thereof shall be made, be deemed to be a road made or to be made for the public good by order of Government, and accordingly the proprietors of such lands shall not, except in the cases provided in their several title deeds, leases, deeds of grant, or other documents of title, be entitled to any compensation for the land taken for the purposes of the Railway, and the amount of

said compensation shall be determined in accordance with the provisions of the Law No. 19, 1875: Provided that any lands granted or reserved by the Crown for the purposes of any village through which the Railway may pass, shall be deemed for the purposes of this Act to be Crown Lands heretofore granted, over which the Government had reserved the right to make roads for the public good by order of the Government. **Act 17, 1904.**

11. The Governor may employ all engineers, clerks, workmen, and other persons for the purposes of the said contract or contracts, and for superintending the construction and maintenance thereunder of the Railway, and for the maintenance and working of the Railway until six months after completion, and pay to all or any such persons, such salaries, wages, or remuneration as may from time to time be voted by Act of Supply. **Governor may employ engineers, &c.**

12. The Governor may provide all workshops, materials, plant, engines, rolling-stock, machinery, and other things, which he may consider requisite for the maintenance, equipment and working of the Railway, or otherwise necessary or desirable in relation thereto. **Governor may provide plant, &c.**

13. The Railway and electric telegraphs, and all stations, lands, works, property, and things belonging thereto, or held in connection therewith, shall be for ever exempt from all highway, municipal, police, and other local rates and taxes now or hereafter to be made or imposed. **Railway exempt from Imposts.**

14. The Governor, with the advice of the Executive Council, may, from time to time, appoint some fit person or persons to carry into effect the purposes of this Act, and may delegate to him or them all or any of the powers and authorities hereby conferred on the Governor, and may, from time to time, remove any person so appointed, and appoint another person in his stead. **Appointment of persons to carry out Act.**

15. The Governor shall not be personally liable for any loss or damage arising from or caused by anything done under the authority of this Act. **Personal immunity of Governor.**

Act No. 27, 1904.

“To empower the Governor to effect alterations and deviations in connection with the Natal Government Railways.”

[3rd August, 1904.]

WHEREAS under powers given by various laws, lines of Railway have been constructed in various parts of the Colony :

AND WHEREAS it is expedient to empower the Governor to

Act 27, 1904. effect improvements in such lines of Railway hereafter to be constructed, whenever necessary :

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

Short title.

1. This Act may be cited as the "Railway Improvement Act, 1904."

Interpretation of terms.

2. In this Act the expression "Railways" shall mean any lines of railway constructed or which may hereafter be constructed by the Colonial Government.

The expression "Deviation" shall mean any departure from the contemplated or existing route of any line of railway, and shall include the removal of existing and the erection of new rails, stations, bridges, telegraphs, and other works and accessories as may be necessary for the carrying out of such deviation.

Governor to be a Corporation for purposes of Act.

3. The Governor shall be a Corporation for the purposes of this Act, and shall be competent to take, hold and dispose of Lands and other property.

Saving of powers under Act 10, 1899.

4. Nothing in this Act shall affect the powers given to the Governor under Act No. 10 of 1899.

Incorporation of Law 16, 1872.

5. The Lands Clauses Consolidation Law, 1872, except as varied by this Act, is incorporated with this Act.

Construction of Deviations from existing routes.

6. The Governor may make and maintain any deviation, from the existing route of any line of railway or the contemplated route of any line of railway hereafter to be constructed, and may enter upon, take, and use permanently or temporarily all such lands as may be required for any deviation. All waste lands of the Crown which may be required for any deviation, or any purpose connected therewith, may be taken and used without any charge or payment for the same.

Construction departmentally or by contract.

7. The Governor is hereby empowered to construct any deviation, or any part or parts thereof either departmentally or by a contract or contracts, or partly in one way and partly in the other, according as he shall deem it most expedient.

Contracts for works.

8. For the purpose of any construction of any deviation or any part thereof by contract, the Governor may enter into a contract or contracts for the execution of the works required for such deviation, that is to say :—

1st. For the construction of the whole of the work required for the above-mentioned line (a) up to formation level, and including the provision and laying of all ballast, the laying of all permanent

(a) It does not seem that any particular line is "above-mentioned." A reference to sec. 2 is probably intended.

way material, and the erection and provision of all fencing which Government may order, together with the maintenance of the whole of the aforesaid works for a period of twelve months after their completion. Act 27, 1904.

2nd. For the purchase of all permanent way materials required for the construction of the aforesaid line.

3rd. For the provision and erection of all stations, station works, and works accessory thereto.

4th. For the purchase and erection of all electric telegraph material.

9. Any deviation shall in respect of all Crown Lands heretofore alienated and granted by the Government in quitrent, or freehold, or leasehold, or any other tenure whatsoever, and in or over which the Railway, or any part thereof, shall be made, be deemed to be a road made, or to be made, for the public good by order of Government, and, accordingly, the proprietors of such lands shall not, except in the cases provided in their several title deeds, leases, deeds of grant, or other documents of title, be entitled to any compensation for the land taken for the purposes of any deviation. Deviations to be deemed public roads.

Lands granted or reserved by the Crown for the purpose of any town or village through which any deviation may pass, and such portions of the town lands of any municipal borough or of any township established under Law No. 11, 1881, as are not now alienated by the Town Council or Local Board, shall be deemed for the purposes of this Act to be Crown Lands heretofore granted, over which the Government had reserved the right to make roads for the public good by order of the Government. Township or Village Lands.

Any such deviation shall not, however, be deemed to be a road made or to be made for the public good by order of Government in respect of a plot of land of any owner which shall be in extent less than one hundred (100) acres. Exemption of plots of less than 100 acres.

10. All materials, plant, and other things imported into the Colony from time to time, for the construction, maintenance, equipment, of any deviation, or for any purpose connected therewith, shall be free of import duty. Materials, plant, &c., exempt from imposts.

11. Any deviation and electric telegraphs, and all stations, lands, works, property, and things belonging thereto, or held in connection therewith, shall be for ever exempt from all highway, municipal, police, and other local rates and taxes now or hereafter to be made or imposed. Deviations exempt from imposts.

12. The Governor, with the advice of the Executive Council, may, from time to time, appoint some fit person or persons to Appointment of persons to carry out Act.

Act 27, 1904. carry into effect the purposes of this Act, and may delegate to him or them all or any of the powers and authorities hereby conferred on the Governor, and may, from time to time, remove any person so appointed, and appoint another person in his stead.

Personal immunity of Governor.

13. The Governor shall not be personally liable for any loss or damage arising from or caused by anything done under the authority of this Act.

Act No. 34, 1904.

“To amend Section 21 of the Act No. 12, 1902.”

[13th August, 1904.]

WHEREAS it is desirable that Act No. 12, 1902, should be amended:

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. Section 21 of the Act No. 12, 1902, shall be repealed, and the following shall be enacted in lieu thereof:—

Power of purchase by Government.

The Governor in Council shall be empowered, subject to the approval of Parliament, at any time after giving not less than six months' notice, to purchase and take the whole of the works authorised by this Act, and the Company shall be required to sell, transfer, and hand over to the Colonial Government the works so purchased, and the purchase price shall be paid to the Company: Provided, however, that the Governor in Council shall not be entitled to give any such notice as aforesaid until after the expiry of Twenty-five years from the 23rd day of May, 1902.

Act No. 41, 1904.

“To empower the Governor to make, maintain, and equip a Line of Railway from the Main Line of Railway to a point at or near the Village of Weenen.

[13th August, 1904.]

WHEREAS it is expedient that the Railway hereinafter described should be constructed:—

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. This Act may be cited as the "Weenen Railway Act, 1904." **Act 41, 1904.**
Short Title.

2. In this Act the expression "the Railway" means the line of Railway authorised by this Act. **Meaning of "Railway."**

3. The Governor shall be a Corporation for the purposes of this Act, and shall be entitled and competent to take, hold and dispose of lands and other property. **Governor to be a Corporation for purposes of Act.**

4. The Lands Clauses Consolidation Law, 1872, except as varied by this Act, is incorporated with this Act. **Incorporation of Law 16, 1872.**

5. The Governor may make and maintain the Railway hereinafter mentioned, with all proper stations, sidings, approaches, passing places, electric telegraphs, signals, works, and conveniences connected therewith respectively; and may so make and maintain the same upon such lands as may be required for the purpose; and may enter upon, take, and use permanently or temporarily all such lands as aforesaid. All waste lands of the Crown which may be required for the Railway, or any purpose connected therewith, may be taken and used without any charge or payment for the same. **Construction of Railway authorised.**

6. The Railway authorised by this Act is as under:—
A Line of Railway commencing at such point on the Main Line of Railway as shall be determined by the Governor and notified by him by Proclamation in the *Natal Government Gazette*, and terminating at or near the Village of Weenen. **Taking of Crown Lands.**

7. The Governor is hereby empowered to construct the Railway, or any part or parts thereof, either departmentally or by contract or contracts, or partly in the one way and partly in the other, according as he shall deem it most expedient. **Description of Railway.**

8. For the purpose of the construction of the Railway or any part thereof by contract, the Governor may enter into a contract or contracts for the execution of the works required for the above-mentioned Railway, that is to say:— **Construction departmentally or by contract.**

1st. For the construction of the whole of the works required for the above-mentioned line up to formation level, and including the provision and laying of all ballast, the laying of all permanent way material, and the erection and provision of all fencing which Government may order, together with the maintenance of the whole of the aforesaid works for a period of twelve months after their completion. **Contracts for Works.**

2nd. For the purchase of all permanent way materials required for the construction of the aforesaid line.

Act 41, 1904.

3rd. For the provision and erection of all stations, station works, and works accessory thereto.

4th. For the purchase and erection of all electric telegraph material :

Provided that it shall be lawful for the Governor to fix and appoint the several sections to be constructed under any such contract, and the time to be allowed for their construction.

Gauge—single line.

9. The Railway shall be constructed as a single line on the gauge of two feet, but the Governor may from time to time cause double lines to be constructed at such place or places on the course of the said Railway as he may think expedient either by way of deviations or otherwise.

Railways to be deemed a public road.

10. The Railway shall in respect of all Crown Lands heretofore alienated and granted by the Government in quit-rent, or freehold, or leasehold, or any other tenure whatsoever, and in or over which the Railway or any part thereof shall be made, be deemed to be a road made or to be made for the public good by order of Government, and accordingly the proprietors of such lands shall not, except in the cases provided in their several title deeds, leases, deeds of grant, or other documents of title, be entitled to any compensation for the land taken for the purposes of the Railway, and the amount of said compensation shall be determined in accordance with the provisions of the Law No. 19, 1875 : Provided that lands granted or reserved by the Crown for the purpose of any town or village through which the Railway may pass shall be deemed for the purposes of this Act to be Crown Lands heretofore granted, over which the Government had reserved the right to make roads for the public good by order of the Government.

Governor may employ engineers, &c.

11. The Governor may employ all engineers, clerks, workmen, and other persons for the purpose of the said contract or contracts, and for superintending the construction and maintenance thereunder of the Railway, and for the maintenance and working of the Railway until six months after completion, and pay to all or any such persons such salaries, wages, or remuneration as may from time to time be voted by Act of Supply.

Governor may provide plant, &c.

12. The Governor may provide all workshops, materials, plant, engines, rolling-stock, machinery, and other things which he may consider requisite for the maintenance, equipment, and working of the Railway, or otherwise necessary or desirable in relation thereto.

Railway exempted from imposts.

13. The Railway and electric telegraphs, and all stations, lands, works, property, and things belonging thereto, or held in connection therewith, shall be for ever exempt from all highway,

municipal, police, and other local rates and taxes now or hereafter to be made or imposed. **Act 43, 1903.**

14. The Governor, with the advice of the Executive Council, may, from time to time, appoint some fit person or persons to carry into effect the purposes of this Act, and may delegate to him or them all or any of the powers and authorities hereby conferred on the Governor, and may, from time to time, remove any person so appointed, and appoint another person in his stead. **Appointment of persons to carry out Act.**

15. The Governor shall not be personally liable for any loss or damage arising from or caused by anything done under the authority of this Act. **Personal immunity of Governor.**

Act No. 1, 1905.

“To ratify an agreement entered into between His Majesty’s High Commissioner for South Africa and the Acting Commissioner of the Central South African Railways, of the one part, and the Colonial Government of Natal of the other part, providing for the construction by the Government of Natal of a line of railway from Bethlehem to Kroonstad, in the Orange River Colony, and for certain other purposes, and to authorise the Governor to construct the said railway and to carry out the conditions of the said agreement.”

[8th May, 1905.]

WHEREAS by an agreement, bearing date the tenth day of March, 1905, and made between His Majesty’s High Commissioner for South Africa and the Acting Commissioner of the Central South African Railways of the one part, and the Colonial Government of Natal, of the other part, it was agreed that the Government of Natal should construct, equip, maintain, and work, upon certain terms prescribed in the said agreement, a line of railway beginning at Bethlehem, in the Orange River Colony, and ending at Kroonstad, in the same Colony, which agreement was made subject to approval by His Majesty’s Principal Secretary of State for the Colonies, and to ratification by the Inter-Colonial Council for the Transvaal and Orange River Colonies and by the Parliament of Natal.

AND WHEREAS the said agreement has been approved by His Majesty’s Principal Secretary of State and ratified by the said Inter-Colonial Council, and an Act of the Parliament of Natal is required to ratify the said agreement, and to authorise

Act 1, 1905. the Governor to construct the line of railway therein referred to and otherwise to carry out the terms thereof :

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Short title.

1. This Act may be cited as “The Orange River Colony Railway Act, 1905.”

Agreement of 10th March, 1905, ratified.

2. The agreement entered into on the tenth day of March, 1905, between His Majesty's High Commissioner for South Africa and the Acting Commissioner of the Central South African Railways of the one part, and the Colonial Government of Natal of the other part, a copy whereof is contained in the Schedule of this Act, is hereby confirmed and ratified.

Construction of railway authorised.

3. The Governor is hereby authorised to construct, equip, maintain and work the line of railway from Bethlehem to Kroonstad, in the Orange River Colony, in manner and upon the terms set forth in the aforesaid agreement, and according to the special terms of the working agreement made under the fourteenth article of the first-mentioned agreement.

Contracts for works.

4. For the purpose of the construction of the railway or any part thereof by contract and subject to the terms of the working agreement aforesaid, the Governor may enter into a contract or contracts for the execution of the works required for the above-mentioned railway, that is to say:—

- 1st. For the construction of the whole of the works required for the above-mentioned line up to formation level, and including the provision and laying of all ballast, the laying of all permanent way material, and the erection and provision of all fencing which Government may order, together with the maintenance of the whole of the aforesaid works for a period of twelve months after their completion.
- 2nd. For the purchase of all permanent way materials required for the construction of the aforesaid line.
- 3rd. For the provision and erection of all stations, station works, and works accessory thereto.
- 4th. For the purchase and erection of all electric telegraph material:

Provided that it shall be lawful for the Governor to fix and appoint the several sections to be constructed under any such contract, and the time to be allowed for their construction.

Governor may employ engineers, &c.

5. The Governor may employ all engineers, clerks, workmen and other persons for the purpose of the said contract or contracts, and for superintending the construction and maintenance

thereunder of the railway, and for the maintenance and working of the railway.

Act 1, 1905.

6. The Governor may provide all workshops, materials, plant, engines, rolling-stock, machinery, and other things which he may consider requisite for the maintenance, equipment and working of the railway, or otherwise necessary or desirable in relation thereto.

Governor may provide plant, &c.

7. The Governor is hereby authorised to advance to the Commissioner of the Central South African Railways, from such moneys as may be provided by Parliament for that purpose, the sum of One Hundred and Fifty Thousand Pounds (£150,000) Sterling for the purposes and subject to the terms of the 6th and 7th articles of the aforesaid agreement of the 10th day of March, 1905.

Advance of £150,000 to C.S.A. Railways authorised.

8. If the whole or any portion of the sum of One Hundred and Fifty Thousand Pounds (£150,000) Sterling mentioned in Section 7 of this Act, shall not be required for the purposes mentioned in the 6th and 7th articles of the agreement of 10th March, 1905, it shall be lawful for the Governor to enter into a further agreement, containing provisions generally similar to those of the aforesaid agreement of 10th March, 1905, for the construction by the Government of Natal of an extension of the railway from Kroonstad to Vierfontein, in the Orange River Colony: Provided that the total expenditure to be incurred under this Act or such further agreement shall not exceed Six Hundred and Fifty Thousand Pounds (£650,000) Sterling.

Alternative disposal of advance or portion thereof.

9. Any reference in this Act to the Commissioner of the Central South African Railways shall apply also to any officer who may be appointed by His Majesty's High Commissioner for South Africa to discharge the duties of the said Commissioner, in case his office should be abolished.

Commissioner of C.S.A. Railways.

10. When and so soon as the powers of expropriation conferred by the aforesaid agreement shall have been exercised and all the conditions relative thereto shall have been performed, the Governor shall be empowered to cede and hand over to the said Commissioner the railways referred to in this Act with the appurtenances thereof, in terms of the said agreement.

Cession of Railways to C.S.A. Railways on exercise of expropriation rights.

SCHEDULE.

Schedule.

Memorandum of agreement made and entered into this tenth day of March, 1905, between Patrick Duncan, C.M.G., of Pretoria, in the Transvaal, South Africa, for and on behalf of His Excellency the High Commissioner of South Africa, and in his capacity as Acting Commissioner of the Central South

Act 1, 1905. African Railways, hereinafter referred to as “The Commissioner,” of the one part, and the Honourable George Leuchars, C.M.G., M.L.A., of Pietermaritzburg, Natal, Minister of Public Works, acting for and on behalf of the Government of Natal, hereinafter referred to as “The Natal Government,” of the other part.

Whereas the Natal Government has applied to the High Commissioner for permission to construct, equip, maintain, and work a railway between Bethlehem and Kroonstad, both in the Orange River Colony :

And whereas, during the Session of the Inter-Colonial Council, held in June, 1904, it was resolved that a railway should be constructed in the Orange River Colony between Bethlehem and Heilbron :

And whereas for the considerations herein set forth, it has been agreed to construct, instead of such last-mentioned railway, a railway between Bethlehem and Modderpoort :

And whereas the terms of this agreement were approved by the Inter-Colonial Council by a resolution passed at a meeting held on the sixteenth day of November, 1904, a copy of which resolution is hereto annexed and marked “A” :

And whereas His Majesty’s Secretary of State for the Colonies has since the date of the resolution mentioned in the last recital signified his approval of the terms hereof :

Now these presents witness, and it is hereby agreed and declared, as follows :—

1. (a) The Central South African Railways shall mean the railways in the Transvaal and the Orange River Colonies, administered and worked as one railway system under the control of the High Commissioner.

(b) The Natal Railways shall mean the entire system of railways owned and administered by the Natal Government.

(c) The Modderpoort line shall mean the railway line to be constructed between Modderpoort and Bethlehem, and shall include the permanent way and all buildings, machinery, plant, material, signalling apparatus, and all works connected therewith.

(d) The Kroonstad line shall mean the railway to be constructed between Bethlehem and Kroonstad, and shall include the permanent way and works as set out under the definition of the Modderpoort line.

2. In consideration of the undertaking by the Commissioner with reference to the Modderpoort line as hereinafter expressed, the Natal Government shall, and hereby undertakes, within three months from the date when this agreement has been

finally ratified, as hereinafter provided, to commence to construct and equip, and thereafter to proceed with reasonable despatch to complete the construction and equipment of a railway in the Orange River Colony between Bethlehem and Kroonstad in accordance with surveys, plans, and sections, types, estimates, and specifications which shall have previously been approved by the Commissioner or by an officer appointed by him for that purpose. Provided, however, that the said line shall be constructed with maximum gradients of one in fifty, compensated, or as near thereto as possible; and that, if necessary, wherever such can be obtained at a reasonable cost and with only a moderate addition to the distance, easier grades shall be adopted.

3. The Natal Government shall purchase from the Commissioner, at prices to be mutually agreed upon, such new permanent way material as may be required for the construction of the Kroonstad line and as the Commissioner can supply from stores already in stock or on order.

4. The Natal Government shall purchase from the Commissioner for the Kroonstad line, rolling stock to the value of £500 per mile of the said line. The quantities, description, and prices of the rolling stock so purchased, except as to the value per mile as aforesaid, shall be mutually agreed upon between the General Managers of the Natal Government Railways and Central South African Railways respectively, and the total sum expended by the Natal Government under this Article shall form part of the capital cost of the Kroonstad line.

5. The Commissioner shall, and hereby undertakes, within three months from the date when this agreement has been finally ratified as aforesaid, to commence to construct and equip, and thereafter to proceed with reasonable despatch to complete the construction and equipment of a railway in the Orange River Colony between Bethlehem and Modderpoort, and so to establish effective railway communication between Bethlehem and Bloemfontein.

6. The Natal Government shall, within twelve months of the date of the final ratification of this agreement, advance to the Commissioner, by way of loan, towards the cost of the Bethlehem-Modderpoort line, the sum of £150,000, being the estimated difference between the cost of the railway which it was intended should have been constructed between Bethlehem and Heilbron and that to be constructed between Bethlehem and Modderpoort.

7. The sum so advanced as aforesaid shall be repaid by the Commissioner to the Natal Government, without notice, five years from the date on which it shall have been so advanced,

Act 1, 1905. provided that the Commissioner shall have the right to pay off the said sum at any time, either in one sum or by instalments of not less than £50,000 each, upon giving three months' notice to that effect. The said sum or any balance thereof shall carry interest at the rate of $3\frac{3}{4}$ per cent. (three and three-quarters per centum) per annum, payable half-yearly.

A separate undertaking to the above effect to be given to the Natal Government in due course.

8. When the railway which is in course of construction in the Orange River Colony between Harrismith and Bethlehem is open for traffic, the arrangements now in existence between the Administrations of the Natal Government Railways and the Central South African Railways respectively as to the working of the line between Van Reenen and Harrismith shall, until the Commissioner has expropriated the Bethlehem-Kroonstad line, or has otherwise terminated this agreement, apply and be given effect to, with reference to the working of the railway between Van Reenen and Bethlehem, that is to say, the entire line between Van Reenen and Bethlehem shall be worked by the Natal Government, who shall, after deducting from the gross amount received in respect of the said line the actual cost of working the same, pay the balance half-yearly to the Commissioner or the officer appointed by him in that behalf. Should the amount of the actual cost of working the said line exceed the total gross receipts, the deficit shall be paid by the Commissioner to the Natal Government.

9. Until the Commissioner has exercised his powers of expropriation as hereinafter provided, or has otherwise terminated this agreement, the Natal Government shall work the Bethlehem-Kroonstad line at its own risk and expense and for its own benefit, subject to such stipulations and conditions as may hereafter be mutually agreed between the General Managers of the Natal and the Central South African Railways respectively; and, further, shall maintain the same up to the standard of maintenance observed on the main lines of the Natal and Central South African Railways.

10. At any time after five years from the date upon which the whole of the Bethlehem-Kroonstad Railway is opened for public traffic, the Commissioner or the officer for the time being authorised on that behalf, may, by giving twelve months' written notice to that effect to the Natal Government, expropriate the same, and the Natal Government shall, on the expiration of the said notice, hand over the railway to the Commissioner complete and in good and full working order, condition, and repair, and on failure to hand over the railway in such good and full working

order, condition, and repair, shall pay to the Commissioner such sum as he has necessarily expended in putting the same in such good order, condition, and repair. **Act 1, 1905.**

11. On expropriating the railway as provided in the last preceding article, the Commissioner shall pay to the Natal Government in respect of the said railway the actual cost of construction and equipment, including the sum paid in respect of rolling stock, together with the following percentages thereon, viz:—

For the cost of raising the capital required for construction and equipment— $2\frac{1}{2}$ per centum.

For interest during construction on the expenditure as and when incurred— $3\frac{1}{2}$ per centum.

For bonus on the total sum expended on construction and equipment, including the above percentages—5 per centum.

12. Upon expropriation as aforesaid, the working by the Natal Government of the railway between Van Reenen and Bethlehem and Bethlehem and Kroonstad shall cease, and the same shall be worked under the Central South African Railway system.

13. Until the Bethlehem-Kroonstad line has been expropriated as aforesaid, or for a term of ten years from the date upon which the whole of the Bethlehem-Kroonstad line has been opened for public traffic as aforesaid, whichever period is longer, the following provisions as to rates shall respectively bind the Administration of the Central South African Railways and the Natal Government:—

- (a) The rates and fares to be charged over lines within the Orange River Colony, forming part of the Central South African Railways, on traffic to and from the Colony of Natal, shall be as favourable per ton and per mile on through and in local traffic as any rates charged for other traffic of a similar description travelling over the whole or any part of the Central South African Railways in the Orange River Colony under like conditions and for the same distances. Provided, however, that this shall not interfere with the right of the Central South African Railways Administration to increase or decrease rates or fares at its discretion within the Orange River Colony so long as such alteration is applied to all its lines in the Orange River Colony. No such alteration shall, however, be made without

Act 1, 1905.

- six months' previous notice to the Natal Government.
- (b) The foregoing conditions shall, *mutatis mutandis*, apply to rates and fares over the railways in Natal owned by the Natal Government in respect of traffic from or for stations in the Orange River Colony belonging to the Central South African Railways.
 - (c) The line from Van Reenen, *via* Bethlehem and Kroonstad to any point within the Orange River Colony shall, for the purpose of reckoning mileage in calculating rates, be regarded as one system, and the charges on traffic between Natal and the Orange River Colony shall be reckoned on the mileage basis at the lowest rate for similar traffic charged over the Orange River Colony lines from Cape Colony or other stations for similar distances.
 - (d) The Natal Government shall have the right to charge its ordinary rates for coal between Bethlehem and Kroonstad, so long as it owns and works the line.
 - (e) Coal from Natal to stations south of the Orange River (excluding stations north of De Aar) shall be charged from the boundary at Van Reenen to the boundary at Norval's Pont or Bethulie, as the case may be, at one halfpenny per ton per mile, or such lower rate as the Tariff for the time being in force may provide.
 - (f) Natal coal for stations in the Orange River Colony and for stations north of De Aar, in the Cape Colony, shall be charged at the lowest Tariff Rates for the time being in force. For the purpose of determining the rates so to be charged, coal being carried from Bethlehem towards Modderpoort and onwards shall be considered as travelling in a coastwards direction from Bethlehem.

Nothing in this Article shall deprive either Administration of its right to afford to other Administrations equal terms as to rates and fares for similar distances and under like conditions, and to regulate or alter its own rates and fares in non-competitive traffic.

14. An agreement shall be drafted by the respective General Managers of the Natal Government Railways and the Central South African Railways, setting forth in detail the points requiring to be dealt with in carrying out the principles herein laid down, and such agreement shall, when approved by the parties hereto, be signed by them, and shall form part of these presents.

15. The two contracting parties bind themselves to promote **Act 1, 1905.** in every way the practical, efficient, and expeditious working of the local or through traffic from places in the Colony of Natal to places in the Orange River Colony, and from places in the Orange River Colony to places in the Colony of Natal, and to grant to each other all usual and useful facilities for the interchange, development, and satisfactory working of such traffic, and the provisions of this agreement shall be mutually construed so as to give effect to the spirit of this article.

16. Should any difference arise at any time between the contracting parties with reference to any matter arising from and in any way connected with this agreement, the same shall forthwith be dealt with by the respective General Managers of the Central South African Railways and the Natal Government Railways, or by any two persons who may for that purpose be appointed by the Administrations concerned, and in the event of their disagreement, the question or questions at issue shall be referred to His Excellency the High Commissioner for his decision, which shall be final and conclusive.

17. The Natal Government undertakes to submit this agreement for ratification and confirmation to the Natal Parliament at a special session, to be convened and held within two months from the date upon which a notification has been received by the Natal Government that the agreement has been approved by His Majesty's Secretary of State.

18. It is expressly declared and agreed that should this agreement not be ratified by the Natal Parliament within two months from the date when the approval of the Secretary of State shall have been communicated to the Natal Government, this agreement shall become null and void and of no further effect, unless further time for such ratification shall have been granted by the High Commissioner.

19. Should the office of Commissioner of Railways be abolished, the powers and duties imposed upon the Commissioner under this agreement shall be carried out and discharged by such officer as the High Commissioner may appoint thereto.

As witness the hands of the said parties the day and year first above written :—

Witnesses :

W. PERCY THOMSON.
FRANK FINDLAY.

PATRICK DUNCAN,
Acting Railway Commissioner.

Witnesses :

G. A. DE ROQUEFEUIL LABISTOUR.
HERBERT MULLENS.

G. LEUCHARS,
Minister of Public Works.

Act 1, 1905.

EXTRAORDINARY MEETING OF INTER-COLONIAL COUNCIL,
NOVEMBER, 1904.

Copy of resolution of the Inter-Colonial Council recorded at their First Sitting on 15th November, 1904:—

“That the following resolution of the Inter-Colonial Council, passed at the Second Ordinary Annual Meeting in Executive Session, be rescinded:

“That the Council authorise the construction of the Heilbron-Bethlehem line, of the light type decided on, as soon as the balance of the guaranteed loan is issued, and the application of the savings accruing from the substitution of a light line for the type of line originally proposed, to the construction of a line to serve the grain districts of the Eastern Orange River Colony, such construction not to be commenced until the views of the inhabitants, as to the comparative merits of an extension either from Bethlehem towards Fouriesburg or an extension from Winburg towards Ficksburg, have been considered by the Council.

“That the draft agreement with the Government of Natal for the construction and working of a line of railway from Bethlehem to Kroonstad be approved, subject to a satisfactory working agreement being arrived at, and that the sum allotted in the Budget for the construction of a line from Bethlehem to Heilbron be devoted to the construction of a line from Bethlehem to Modderpoort.”

A true copy,

R. H. BRAND,

Secretary to the Inter-Colonial Council.

Act No. 3, 1905.

“To declare the Law with regard to the proof of negligence in cases arising out of fires caused by railway engines.”

[22nd May, 1905.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. In any action for damages sustained by fire occasioned by a railway engine, it shall not be incumbent upon the plaintiff to

prove that a fire shown to have been so occasioned was due to the negligence of the Railway Department, or of the owner of a Railway not belonging to the Colonial Government, but such negligence shall be presumed unless the contrary is shown, and the onus of disproving negligence shall rest upon the defendant. Act 3, 1905.

Act No. 7, 1905.

“To ratify an agreement made between the Zululand Railway Company, Limited, and the Colonial Government of Natal, for the purchase of the Zululand Railway by the said Government, and to make the necessary provision for the payment of the purchase price.”

[19th June, 1905.]

WHEREAS by a contract made between the Colonial Government of Natal and Thomas Reynolds, bearing date the 10th day of June, 1899, for the construction of a railway to be known as the Zululand Railway, certain rights were reserved to the Government in respect of the purchase of the said railway from the said Thomas Reynolds, or his successors or assigns, at such times and upon such terms as were provided in that behalf :

AND WHEREAS the said contract was confirmed by the Zululand Railway Act of 1899, and the railway therein referred to has been constructed, and is now being worked in accordance with the said contract and Act by the Colonial Government :

AND WHEREAS the rights of the said Thomas Reynolds under the said contract and Act have passed to and become vested in a Joint Stock Company known as the Zululand Railway Company, Limited :

AND WHEREAS by an agreement made between the said Company and the Colonial Government on the thirty-first day of March, 1905, the Company have agreed to sell, and the Government have agreed to buy the said railway, but the said agreement is made subject to the ratification by Act of Parliament, and an Act is therefore necessary to ratify the same and to make provision for the payment of the purchase price :

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. This Act may be known as the “Zululand Railway Purchase Act, 1905.” Short title.

2. In this Act— Definitions.

The word “Company” means the Zululand Railway Company, Limited.

Act 7, 1905.

The word "Government" means the Colonial Government of Natal.

The word "Railway" means the railway which has been constructed in terms of the Zululand Railway Act, 1899, and which extends from the south side of the River Tugela to the present terminus at Somkele in the Province of Zululand, together with all lands, buildings, works, telegraphs, machinery, and things of every description belonging or appertaining to the railway.

Ratification of agreement.

3. The agreement made between the Company and the Government which forms the Schedule to this Act is hereby confirmed and ratified.

Railway when to be the property of Government.

4. From and after the taking effect of this Act, the railway shall be the property of the Government, and shall be worked as a part of the Natal Government Railways, and none of the provisions of the contract forming the Schedule of the Zululand Railway Act, 1899, shall thereafter be of force, save as to any payments becoming due thereunder before the said date.

Payment of purchase price.

5. For the purpose of paying the purchase price of the railway, the Governor may authorise the creation and issue of Natal Consolidated Stock up to the sum of Seven Hundred and Twenty-five Thousand Pounds (£725,000) Sterling, bearing interest from the date of the commencement of this Act, at the rate of three and a half per centum per annum, payable at the office of the Agent-General in London, or at such other place as may be agreed.

Stock to issue under Loan Law, 1892.

6. Such stock shall be issued in accordance with the provisions of the General Loan Law, 1882: Provided that it shall be in the option of the Agent-General to issue the stock either in the manner prescribed by Section 7 of the said Law, or by having it inscribed in the names of the Company's nominees in the books of the registrars of the stocks in London.

Wherever in the said Law the Crown Agents for the Colonies are referred to, such reference shall, for the purposes of this Act, be deemed to be a reference to the Agent-General for the Colony of Natal.

Capital sum to be part of the public debt of Colony.

7. The capital sum represented by the stock issued under the authority of this Act shall be a part of the public debt of the Colony within the meaning of the Consolidated Loans Fund Act, 1904, and shall be deemed to have been issued from the Consolidated Loans Fund, within the meaning of Section 9 of the said Act.

8. The issue and delivery to the Company of the full amount of stock authorised by this Act shall be deemed to be a full payment of the purchase price of the railway. **Act 7, 1905.**
 Stock to be full payment.

SCHEDULE.

AN AGREEMENT made between Edward Mackenzie Greene, of Pietermaritzburg, as the duly authorised Agent in Natal of the Zululand Railway Company, Limited (hereinafter called the Company), of the one part, and the Honourable Sir George Morris Sutton, K.C.M.G., Prime Minister of the Colony of Natal, and as such representing the Colonial Government of Natal (hereinafter called the Government), of the other part :

WHEREAS by a contract made between the Colonial Government of Natal and Thomas Reynolds, bearing date the 10th day of June, 1899, for the construction of a railway to be known as the Zululand Railway, certain rights were reserved to the Government in respect of the purchase of the said railway from the said Thomas Reynolds, or his successors or assigns, at such times, and upon such terms as were provided in that behalf :

AND WHEREAS the said contract was confirmed by the Zululand Railway Act of 1899, and the railway therein referred to has been constructed, and is now being worked in accordance with the said contract and Act by the Colonial Government :

AND WHEREAS the rights of the said Thomas Reynolds, under the said contract and Act have passed to and become vested in the Company :

AND WHEREAS it has been agreed between the parties hereto that the Company shall sell, and the Government shall purchase the said railway at the price, and upon the terms hereinafter set forth, subject to ratification by Parliament, and that the terms of this agreement shall, when so ratified, take the place of the terms prescribed by the aforesaid contract :

NOW, THEREFORE, this agreement witnesseth as follows :

1. The word "Railway," as used in this agreement means the railway which has been constructed in terms of the Zululand Railway Act, 1899, and which extends from the south side of the Tugela River to the present terminus at Somkele, in the Province of Zululand, in the Colony of Natal, together with all lands, buildings, works, telegraphs, machinery, and things of every description belonging or appertaining to the railway.

2. The Company agrees to sell to the Government, and the Government agrees to purchase the railway for the sum of Seven Hundred and Twenty-five Thousand Pounds (£725,000) Sterling, payable as hereinafter provided.

Act 7, 1905.

3. This agreement shall not take effect unless and until an Act of the Parliament of Natal shall have been passed ratifying the same and making the necessary provision for the payment of the purchase price, and the agreement shall wholly lapse and cease to be binding upon the parties, if such an Act shall not be passed during the session of Parliament being held at the date of the execution of this agreement; but upon the passing of such Act the agreement shall become of full force and effect.

4. Immediately upon the promulgation of such Act of Parliament, the railway shall pass to, and become the property of the Government, and the Company shall, as soon as conveniently may be, give transfer and conveyance to the Government of any immovable property forming a part of the railway, and registered in the name of the Company.

Inasmuch as the Government has possession of the railway for the purpose of working the same in terms of the contract between the Government and Thomas Reynolds, which forms the Schedule of the Zululand Railway Act, 1899, no special act of delivery of any movables shall be necessary in order to vest the property therein in the Government.

5. The date of the promulgation of such Act as aforesaid in the *Natal Government Gazette* shall be deemed to be the date of the purchase of the railway by the Government.

6. The purchase price of the railway shall be paid and shall be deemed to be wholly satisfied by the inscription in the names of the Company's nominees, in the books of the Registrars in London, of Natal Consolidated Stock for the sum of Seven Hundred and Twenty-five Thousand Pounds (£725,000) Sterling, bearing interest at the rate of three and a half ($3\frac{1}{2}$) per centum per annum, or by the payment to the Company of the nett proceeds of the public issue, under the General Loan Law, 1882, of Stock to such nominal amount as aforesaid.

7. The whole of such stock as aforesaid shall be issued in London within two months from the date of the purchase, and the interest thereon shall be reckoned as from the date of the purchase inclusively.

8. This agreement shall, so soon as it is ratified by Parliament, take the place of the aforesaid contract made between the Government of Natal and Thomas Reynolds, which shall cease to operate from the date of the promulgation of the Act, without prejudice to anything done, or any payment due thereunder up to the date of the purchase of the railway.

9. Nothing in this agreement shall be deemed to affect the rights of the Company pending the passing of such Act as

aforesaid, and the interest guaranteed by the Government upon the purchase price shall until then continue to be paid upon the purchase price of Eight Hundred and Thirty-six Thousand Nine Hundred and Three Pounds Five Shillings and Elevenpence Sterling (£836,903 5s. 11d.), formerly agreed upon, and not upon the purchase price fixed by this agreement, and the amount which may be so due in respect of the period between the last previous date up to which such guaranteed interest may have been paid and the date of the purchase of the railway shall be paid by the Government to the Company in cash in London within two months from the purchase of the railway.

Thus done at Pietermaritzburg, Colony of Natal, the 31st day of March, 1905.

As Witness to the signature of
Edward Mackenzie Greene :— } E. M. GREENE.

J. W. F. BIRD,
Secretary, Law Department, Natal.

As Witness to the signature of
the Hon. Sir George Morris Sutton :— } GEO. M. SUTTON.

G. T. PLOWMAN,
Secretary, Railways and Harbours, Natal.

Act No. 10, 1905.

“To extend the provisions of the Stuartstown Railway Act, 1904.”

[25th June, 1905.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. Subject to the necessary provision by vote of supply, the Governor may enter into a contract with any person, firm or company (hereinafter called the Contractor) to construct, maintain and work for a specified time not exceeding two years the railway authorised by the Stuartstown Railway Act, 1904, and the Governor may exercise the authority and powers given to him by the said Act by means of the Contractor.

Railway may
be constructed
and worked
two years by
Contractor.

2. Any such contract may fix the price of construction or the manner in which the price is to be ascertained, and the terms upon which the railway is to be worked, as regards rates

Contract may
provide for
rates, fares,
&c.

Act 10, 1905. of freight and fares, the use and hire of railway stock, plant and telegraphs, the adjustment and apportionment of earnings and all matters necessary to give effect to the objects of this Act.

Governor may take land for Contractor's use.

3. For the purpose of assisting the Contractor to construct the railway, the Governor may take as for a public road all lands subject to be so taken and required for the railway, including the lands referred to in Section 10 of the principal Act, and may place such lands at the disposal of the Contractor for the purpose of constructing the railway thereon.

Authority to Contractor to work Railway.

4. The Contractor shall have full authority and right to use and work the railway during the period specified in the contract and subject to the terms thereof, and may employ steam engines and all carriages, rolling stock and appliances necessary and incidental to the proper use and working of the railway.

Contractor may make regulations.

5. The Contractor may, with the approval of the Governor, make regulations conforming as nearly as may be to those in force upon the Natal Government Railways for all matters necessary for the safe and proper use and working of the railway, for preventing the commission of any nuisance in or upon the railway premises or carriages, for regulating the travelling upon the railway, and all other matters properly incidental to the exercise of the powers given by this Act.

Penalties thereunder.

Any such regulations may impose reasonable penalties for offences against the same, and such penalties shall be recoverable at the suit of the Contractor, with costs, in cases where a contravention is proved.

Liability of Contractor for accidents.

6. The Contractor shall be answerable for all accidents, damages, and injuries happening through his act or default, or through the act or default of any person in his employment, by reason or in consequence of any of his works or carriages.

The contract to be entered into with the Contractor may, however, regulate the respective liability of the Government and the Contractor towards each other in any such matters as aforesaid.

Act No. 11, 1905.

“To provide for the construction and working of a line of railway from Vryheid.”

[25th June, 1905.]

WHEREAS it is expedient that the Railway hereinafter described should be constructed :

AND WHEREAS certain plans showing generally the direction

and route of the said railway have been deposited at the offices of the Clerks of the Legislative Council and Legislative Assembly: **Act 11, 1905.**

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Natal, as follows:—

1. This Act may be cited as the "Vryheid Extension Railway Act, 1905." **Short title.**

2. In this Act the expression "the Railway" means the line of Railway authorised by this Act (a). **Definition.**

3. The Governor shall be a Corporation for the purposes of this Act, and shall be entitled and competent to take, hold, and dispose of lands and other property. **Governor incorporated.**

4. The Lands Clauses Consolidation Law, 1872, except as varied by this Act, is incorporated with this Act. **Lands Clauses Consolidation Law, 1872, incorporated.**

5. The Governor may make and maintain in the lines according to plans deposited, or in such of the lines and with such deviations from the deposited plans as the Governor shall think desirable, while preserving the general direction of the Railway, as shown on the same plans, the Railway hereinafter mentioned, with all proper stations, sidings, approaches, passing places, electric telegraph signals, works, and conveniences connected therewith respectively; and may so make and maintain the same upon such of the lands shown in the deposited plans, or upon such other lands as may be required for the purpose; and may enter upon, take, and use permanently or temporarily all such lands as aforesaid as may be so required. All waste lands of the Crown which may be required for the Railway, or any purpose connected therewith, may be taken and used without any charge or payment for the same. **Governor empowered to make and maintain Railway and to take lands.**

6. The Railway authorised by this Act is as under:— **Description of Railway.**

A line of Railway commencing by a junction with the existing line of railway at Vryheid Station, and proceeding to or in the direction of Umkuzi Poort.

7. The Railway shall be constructed as a single line on the gauge of three feet six inches, but the Governor may from time to time cause double lines to be constructed at such place or places on the course of the said Railway as he may think expedient. **Gauge.**

8. The Railway shall, in respect of all Crown Lands heretofore alienated and granted by the Government in quitrent, or freehold, or leasehold, or any other tenure whatsoever, and in **Railway to be deemed a public road.**

(a) By Act No. 55, 1906, post, it is expressly enacted that nothing in this Act contained shall affect the railway which is the subject of that statute.

Act 11, 1905. or over which the Railway or any part thereof shall be made, be deemed to be a road made or to be made for the public good by order of Government, and accordingly the proprietors of such land shall not, except in the cases provided in their several title deeds, leases, deeds of grant, or other documents of title, be entitled to any compensation for the land taken for the purposes of the Railway, and the amount of said compensation shall be determined in accordance with the provisions of the Law No. 19, 1875: Provided that lands granted or reserved by the Crown for the purpose of any town or village through which the Railway may pass shall be deemed for the purposes of this Act to be Crown lands heretofore granted, over which the Government had reserved the right to make roads for the public good by order of the Government.

Construction departmentally or by contract.

9. The Governor is hereby empowered to construct the Railway or any part or parts thereof, either departmentally or by a contract or contracts or partly in the one way and partly in the other, according as he shall deem it most expedient.

Contracts for works.

10. For the purpose of the construction of the Railway or any part thereof by contract, the Governor may enter into a contract or contracts for the execution of the works required for the above-mentioned Railway, that is to say:—

- 1st. For the construction of the whole of the works required for the above-mentioned line up to formation level, and including the provision and laying of all ballast, the laying of all permanent way material, and the erection and provision of all fencing which Government may order, together with the maintenance of the whole of the aforesaid works for a period of twelve months after their completion.
- 2nd. For the purchase of all permanent way materials required for the construction of the aforesaid line.
- 3rd. For the provision and erection of all stations, station works, and works accessory thereto.
- 4th. For the purchase and erection of all electric telegraph material:

Provided that it shall be lawful for the Governor to fix and appoint the several sections to be constructed under any such contract, and the time to be allowed for their construction.

Governor may employ Engineers, &c.

11. The Governor may employ all engineers, clerks, workmen, and other persons for the purposes of the said contract or contracts, and for superintending the construction and maintenance thereunder of the Railway, and for the maintenance and working of the Railway until six months after completion, and

pay to all or any such persons such salaries, wages, or remuneration as may from time to time be voted by Act of Supply.

Act 11, 1905.

12. The construction of the Railway shall not be begun unless and until the Government shall have entered into an agreement with some person or company, under sufficient security, for the provision of the cost of construction of the first section of the Railway from Vryheid, up to a limit of £6,000 per mile, free of interest, and the construction of the Railway shall not be carried beyond such section until a similar agreement shall have been entered into in regard to any further extension of the line.

Agreement to be entered into for cost of construction.

13. Such agreement shall provide for the due repayment to the Government of all moneys expended from time to time up to the aforesaid limit, in the construction of that section of the Railway to which the agreement relates, as certified by the Engineer-in-Chief of Railways.

Agreement to provide for repayment to Government.

The cost to be so repaid shall include the construction of the whole of the Railway with its appurtenances, telegraphs, fencing, station buildings and equipment, with the exception of engines and rolling stock.

Cost to include construction of whole railway.

14. It may be a condition of the agreement for the construction of the first section that in the event of a further section of the Railway being constructed under an agreement for repayment, such latter agreement shall provide for the repayment of one-half of such cost as aforesaid to the person or company with whom the first agreement is made and that should there be any further extensions under similar agreements the promoters shall in turn be required to contribute a *pro rata* share of the costs of construction of prior sections.

Condition in case of extension of line under agreement

15. Any such agreement may provide that in the event of a future extension of the Railway by the Government at public expense, then the whole of the payments made as aforesaid, or any outstanding portion thereof, by any person or company for the construction of any section or sections shall be refunded by the Government without interest; and the Government shall in any case reserve the right to make such refund at any time.

Condition in case of extension of line by Government.

16. Any such agreement shall reserve to the Government the ownership, control, management and working of the Railway.

Ownership, &c., reserved to Government.

17. The Governor may provide all workshops, materials, plant, engines, rolling stock, machinery and other things which he may consider requisite for the maintenance, equipment, and working of the Railway, or otherwise necessary or desirable in relation thereto.

Workshops, plant, &c.

18. The Railway and electric telegraphs, and all stations, lands, works, property, and things belonging thereto, or held in

Exemption from rates and taxes.

Act 11, 1905. connection therewith, shall be for ever exempt from all highway, municipal, police, and other local rates and taxes now or hereafter to be made or imposed.

Appointment of person to carry Act into effect.

19. The Governor, with the advice of the Executive Council, may, from time to time, appoint some fit person or persons to carry into effect the purposes of this Act, and may delegate to him or them all or any of the powers and authorities hereby conferred on the Governor, and may, from time to time, remove any person so appointed, and appoint another person in his stead.

Immunity of Governor.

20. The Governor shall not be personally liable for any loss or damage arising from or caused by anything done under the authority of this Act.

Act No. 20, 1905.

“To continue with amendments the operation of Law No. 9, 1882, entitled Law ‘To continue with certain amendments, the Law No. 25, 1880,’ entitled Law ‘To provide for the Management and Working of the Natal Government Railways.’”

[22nd July, 1905.]

WHEREAS by Act No. 26, 1904, provision is made for the continuance in force and operation until the 31st day of December, 1905, of the Law No. 9, 1882, and it is expedient that the said Law should be continued in force and operation until the 31st day of December, 1906 :

BE IT THEREFORE ENACTED by the King’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

Continuation of Law No. 9, 1882.

1. The Law No. 9, 1882, entitled Law “To continue with certain amendments, the Law No. 25, 1880, entitled Law ‘To provide for the Management and Working of the Natal Government Railways,’” shall be and remain in force and operation from and after the 31st day of December, 1905, until the 31st day of December, 1906.

Interpretation

2. The words “Natal Government Railways,” wherever used in the said Law No. 9, 1882, shall include all Government Railways, now or hereafter to be constructed, and all Railways worked by the Natal Government Railways.

3. There shall be a board, which shall be called the Railway Advisory Board, consisting of three members, whose duty it shall be to advise the Government upon such matters affecting the administration and management of the Natal Government Railways as may be referred to them by the Government. **Act 20, 1905.**

Railway Advisory Board.

The members shall be appointed by the Governor in Council, and shall hold office from year to year. All appointments shall expire on the 31st day of December in each year, but any appointment may be renewed. **Appointment of.**

The Governor in Council shall nominate the chairman of the board.

The first board shall be appointed as soon as may be after the commencement of this Act.

If any member is prevented by absence from the Colony or otherwise from attending the meetings of the board, the Governor may appoint a person to act temporarily in his place.

Two members shall form a quorum.

The board may make regulations to be approved by the Governor in Council, for the holding of meetings and for matters of procedure. **Board may make Regulations.**

Every member of the board shall, when attending meetings of the board or travelling upon the business thereof, receive payment at the rate of One Pound a day, and shall, in addition, receive travelling allowances at the same rates as are allowed to heads of Government Departments. **Allowances to Members.**

Act No. 16, 1906.

“To empower the Governor to make, maintain, and equip a line of Railway from the Umlaas Road Station to a point at or near Mid-Illovo.”

[26th July, 1906.]

WHEREAS it is expedient that the Railway hereinafter described should be constructed :

AND WHEREAS certain plans showing generally the direction and route of the said Railway have been deposited at the Offices of the Clerks of the Legislative Council and Legislative Assembly :

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. This Act may be cited as the “Mid-Illovo Branch Railway Act, 1906.” **Short title.**

Act 16, 1906.

Interpretation

2. In this Act the expression "the Railway" means the line of Railway authorised by this Act.

Governor to be a corporation.

3. The Governor shall be a Corporation for the purposes of this Act, and shall be entitled and competent to take, hold, and dispose of lands and other property.

Law 16, 1872.

4. The Lands Clauses Consolidation Law, 1872, except as varied by this Act, is incorporated with this Act.

Construction of railway authorised.

5. The Governor may make and maintain in the lines according to plans deposited, or in such of the lines and with such deviations from the deposited plans as the Governor shall think desirable, while preserving the general direction of the Railway, as shown on the same plans, the Railway hereinafter mentioned, with all proper stations, sidings, approaches, passing places, electric telegraph signals, works, and conveniences connected therewith respectively; and may so make and maintain the same upon such of the lands shown in the deposited plans, or upon such other lands as may be required for the purpose; and may enter upon, take, and use permanently or temporarily all such lands as aforesaid as may be so required. All waste lands of the Crown which may be required for the Railway, or any purpose connected therewith, may be taken and used without any charge or payment for the same.

6. The Railway authorised by this Act is as under:—

Description of railway.

A line of Railway commencing at or near the Umlaas Road Station, on the Main Line Railway, and ending at or near Mid-Illovo, in the County of Pietermaritzburg.

Construction departmentally or by contract.

7. The Governor is hereby empowered to construct the Railway or any part or parts thereof, either departmentally or by a contract or contracts, or partly in the one way and partly in the other, according as he shall deem it most expedient.

Contracts for works.

8. For the purpose of the construction of the Railway or any part thereof by contract, the Governor may enter into a contract or contracts for the execution of the works required for the above-mentioned Railway, that is to say:—

1st. For the construction of the whole of the works required for the above-mentioned line up to formation level, and including the provision and laying of all ballast, the laying of all permanent way material, and the erection and provision of all fencing which Government may order, together with the maintenance of the whole of the aforesaid works for a period of twelve months after their completion.

- 2nd. For the purchase of all permanent way materials required for the construction of the aforesaid line. **Act 16, 1906.**
- 3rd. For the provision and erection of all stations, station works, and works accessory thereto.
- 4th. For the purchase and erection of all electric telegraph material :

Provided that it shall be lawful for the Governor to fix and appoint the several sections to be constructed under any such contract, and the time to be allowed for their construction.

9. The Railway shall be constructed as a single line on the gauge of two feet, but the Governor may from time to time cause double lines to be constructed at such place or places on the course of the said Railway as he may think expedient. Gauge—single line.

10. The Railway shall, in respect of all Crown Lands heretofore alienated and granted by the Government in quitrent, or freehold, or leasehold, or any other tenure whatsoever, and in or over which the Railway or any part thereof shall be made, be deemed to be a road made or to be made for the public good by order of Government, and accordingly the proprietors of such land shall not, except in the cases provided in their several title deeds, leases, deeds of grant, or other documents of title, be entitled to any compensation for the land taken for the purposes of the Railway, and the amount of said compensation shall be determined in accordance with the provisions of the Law No. 19, 1875: Provided that lands granted or reserved by the Crown for the purpose of any town or village through which the Railway may pass shall be deemed for the purposes of this Act to be Crown lands heretofore granted, over which the Government had reserved the right to make roads for the public good by order of the Government. Railway to be deemed a public road.

11. The Governor may employ all engineers, clerks, workmen, and other persons for the purposes of the said contract or contracts, and for superintending the construction and maintenance thereunder of the Railway, and for the maintenance and working of the Railway until six months after completion, and pay to all or any such persons such salaries, wages, or remuneration as may from time to time be voted by Act of Supply. Governor may employ engineers, &c.

12. The Governor may provide all workshops, materials, plant, engines, rolling stock, machinery, and other things which he may consider requisite for the maintenance, equipment, and working of the Railway, or otherwise necessary or desirable in relation thereto. Governor may provide plant, &c.

13. The Railway and electric telegraphs, and all stations, lands, works, property, and things belonging thereto, or held in Exemption from rates, &c.

Act 16, 1906.

connection therewith, shall be for ever exempt from all highway, municipal, police, and other local rates and taxes now or hereafter to be made or imposed.

Appointment
of persons to
give effect to
Act.

14. The Governor, with the advice of the Executive Council, may, from time to time, appoint some fit person or persons to carry into effect the purposes of this Act, and may delegate to him or them all or any of the powers and authorities hereby conferred on the Governor, and may, from time to time, remove any person so appointed, and appoint another person in his stead.

Personal
immunity of
governor.

15. The Governor shall not be personally liable for any loss or damage arising from or caused by anything done under the authority of this Act.

Act No. 20, 1906.

“To continue with amendments the operation of Law No. 9, 1882, entitled Law ‘To continue with certain amendments, the Law No. 25, 1880,’ entitled Law ‘To provide for the Management and working of the Natal Government Railways.’”

[28th July, 1906.]

WHEREAS by Act No. 20, 1905, provision is made for the continuance in force and operation until the 31st day of December, 1906, of the Law No. 9, 1882, and it is expedient that the said Law should, with the amendments thereof, be continued in force and operation until the 31st day of December, 1907:

BE IT THEREFORE ENACTED by the King’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Natal, as follows:—

1. The Law No. 9, 1882, entitled Law, “To continue with certain amendments the Law No. 25, 1880, entitled Law ‘To provide for the Management and Working of the Natal Government Railways,’” as amended by Act No. 20, 1905, shall be and remain in force and operation from and after the 31st day of December, 1906, until the 31st day of December, 1907.

2. The words “Natal Government Railways,” wherever used in the said Law No. 9, 1882, shall include all Government Railways, now or hereafter to be constructed, and all Railways worked by the Natal Government Railways.

Act No. 34, 1906.

“To authorise the construction of a Railway Siding from the Natal Government Railways at or near to the Avoca Railway Station to Effingham Estate.”

[22nd August, 1906.]

WHEREAS Gertrude Emily Bradley, of Umgeni, County of Victoria, wife of Edmund Edward Herbert Bradley, Engineer, is desirous of constructing a Railway Siding for the conveyance of goods and merchandise from a point south of the Avoca Railway Station on the North Coast Government Railway Line through the village of Avoca along the Effingham Road and thence through the Effingham Estate to a point known as the Quarry :

AND WHEREAS, in connection with the said siding it will be necessary to pass along certain public roads, and certain properties may be injuriously affected, the right to which it is necessary to acquire :

AND WHEREAS it is expedient that the power to pass along or near to the said roads and acquire the said properties should be given :

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. This Act may be cited as the “ Effingham Siding Act.” Short title.
2. In the interpretation of this Act the word “ Promoter ” “ Promoter.” shall include the said Gertrude Emily Bradley, her heirs and successors, and any person or company to which she may sell or transfer the rights, privileges and powers conferred upon her by this Act.
3. The Lands Clauses Consolidation Law, 1872, in so far as applicable and save and except where varied by this Act, shall be incorporated with this Act. Lands Clauses Law.
4. The Promoter is hereby authorised and empowered, subject to such terms as may be imposed by the Government to contract, carry on and complete and maintain the said siding, and to do all works in connection therewith. Authorisation of work.
5. The Promoter and the Government of Natal are hereby authorised to contract with each other for the purposes of acquiring from the Government aforesaid, whether by way of letting, hiring, or granting, and upon such terms as may be mutually agreed upon, the right of constructing the said Siding along the hereinafter mentioned public road and the right of working the same. Promoter and Government authorised to contract.

Act 34, 1906.

Acquisition of lands.

6. The Promoter is hereby authorised to acquire by purchase, agreement, or compulsory sale any private lands necessary for the construction of the said Siding.

Propelling power.

7. The Promoter shall be and is hereby authorised and empowered, subject to such terms as may be imposed by the Government by herself, or her deputies, agents, officers, employees, or workmen to construct and complete the said Siding in a proper and workmanlike manner, and with all conveniences adjoining thereto or connected therewith for the passage thereon of railway engines and trucks.

The cars, carriages, trucks, or other vehicles used on the said Siding may be propelled by animal, steam, or other motive power.

Right of entry upon roads, lands, &c.

8. The Promoter for the purpose of carrying out any of the works authorised by this Act shall have the right to enter upon public roads or private lands as aforesaid and break up same for the purpose of laying down the said Siding: Provided that the Promoter prior to such entry shall give at least one month's notice in writing to the Minister of Public Works for the time being, or to the Person or Persons whose land may be required, notifying her intention of so entering upon said public roads or private lands, and the said Siding shall be laid down as speedily as possible and with as little detriment and inconvenience to the public as circumstances will admit, and the roads restored to the same condition in which they were before the said works were made.

Gauge.

9. The Siding shall be laid and constructed to the standard gauge of the Natal Government Railways, and shall be carried out to the satisfaction of the Engineer of the Natal Government Railways or his deputy and shall be laid and maintained in such manner wheresoever it runs across any road or street used for traffic, that the uppermost surface of the rails shall be level with the surface of the street or road.

When to be opened.

10. The said Siding shall not be open for public traffic until the same shall have been certified to be fit for public traffic by the Engineer to be appointed by the Natal Government Railways.

Right to carry goods on siding.

11. Should the Promoter be authorised by her contract with the Natal Government to work the said siding, she may carry farmer's produce, parcels, goods, merchandise, or other cargo along the said Siding, and make a charge for the carriage of the same, but such tariff of charges shall be subject to the approval of the Governor in Council.

By-laws.

12. The said Siding when constructed shall be worked subject to all the By-laws then or from time to time thereafter

made by the Natal Government Railways, in so far as applicable **Act 34, 1906.**
to the said Siding.

13. The Promoter shall be answerable for all accidents, damages, and injuries happening through her wrongful act or default, or the wrongful act or default of any person or persons in her employment, by reason or in consequence of any of their works or of their engines or carriages, and shall save harmless all road and other authorities, companies or bodies and their officers and servants from all damages and costs in respect of such accidents, damages and injuries. Responsibility for accidents, damages, &c.

14. The Promoter shall be bound, if required, to furnish the Governor in Council with full particulars as to the cost of construction of the said Siding, and also of the revenue and expenditure of the same from time to time. Particulars of cost to be furnished to governor.

15. The Governor in Council shall be empowered, subject to the approval of Parliament, at any time, after giving not less than six months' notice, to purchase and take over the whole of the works authorised by this Act, and the Promoter shall be required to sell, transfer and hand over to the Colonial Government the works so purchased, and the purchase price shall be paid to the Promoter. Expropriation of works.

Any such purchase shall be effected according to the provisions of Law No. 16 of 1872. Provided:

- (a) That the purchase price shall be determined according to the value of the works to the Government at the time of purchase without any addition in respect of compulsory purchase, statutory rights, goodwill, or profits, save as provided in Sub-section (b).
- (b) That there shall be added to the value ascertained as aforesaid an amount as interest equal to five per centum per annum on the capital expended, if the works be purchased before completion, and if purchased at any time thereafter, an amount equal to ten per centum on the value ascertained as aforesaid.

16. If and wherever the said proposed Siding, when laid over any public road, shall reduce the full available width of such road, on any one side of the said Siding, to a less width than twenty feet, the Promoter shall be bound to acquire, at her own cost, and vest in the Government, so much of land running along the said road as may be necessary in the discretion of the Engineer of the Public Works Department so as to allow of the said road being made up to the said width of twenty feet, and all lands so required shall be deemed to be lands which the Promoter is authorised by this Act to expropriate. Roads to be made up where necessary.

Act 34, 1906.

Right of user
only over
roads.

17. Notwithstanding anything in this Act contained, the Promoter shall not acquire or be deemed to acquire any right other than the user of any road along, over, or across which the said Siding may pass.

Arbitration.

18. Any difference or dispute arising in respect of any of the matters referred to in this Act shall be settled by arbitration.

Act No. 49, 1906.

“To provide for the construction and working of a line of railway from the main line of the Natal Government Railways to Utrecht.”

[5th September, 1906.]

WHEREAS it is expedient that the Railway hereinafter described should be constructed :

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

Short title.

1. This Act may be cited as the “Utrecht Railway Act, 1906.”

Definition.

2. In this Act the expression “the Railway” means the line of Railway authorised by this Act.

Governor to
be a Corpora-
tion.

3. The Governor shall be a Corporation for the purposes of this Act, and shall be entitled and competent to take, hold, and dispose of lands and other property.

Lands Clauses
&c. Law.

4. The Lands Clauses Consolidation Law, 1872, except as varied by this Act, is incorporated with this Act.

Authority for
construction
of Railway.

5. The Governor may make and maintain in the lines according to plans to be first deposited at the offices of the Clerks of the Legislative Council and Legislative Assembly, or in such of the lines and with such deviations from the deposited plans as the Governor shall think desirable, while preserving the general direction of the Railway as shown on the same plans, the Railway hereinafter mentioned, with all proper stations, sidings, approaches, passing places, electric telegraph signals, works and conveniences connected therewith respectively; and may so make and maintain the same upon such of the lands shown in the deposited plans, or upon such lands as may be required for the purpose; and may enter upon, take, and use permanently or temporarily all such lands as aforesaid as may be

so required. All waste lands of the Crown which may be required for the Railway or any purpose connected therewith, may be taken and used without any charge or payment for the same. **Act 49, 1906.**

6. The Railway authorised by this Act is as under :—A line of Railway commencing by a junction with the existing line of railway at a point to be determined upon by the Governor in Council, at or near to Newcastle, and terminating at a point upon or near to the town lands of Utrecht. **Route of Railway.**

7. The Railway shall be constructed as a single line on the gauge of three feet six inches, but the Governor may from time to time cause double lines to be constructed at such place or places on the course of the said Railway as he may think expedient. **Gauge.**

8. The Railway, if built by the Government, shall, in respect of all Crown Lands heretofore alienated and granted by the Government in quitrent, or freehold or leasehold, or any other tenure whatsoever, and in or over which the Railway or any part thereof shall be made, be deemed to be a road made or to be made for the public good by order of Government, and accordingly the proprietors of such land shall not, except in the cases provided in their several title deeds, leases, deeds of grant or other documents of title, be entitled to any compensation for the land taken for the purposes of the Railway, and the amount of said compensation shall be determined in accordance with the provisions of the Law No. 19, 1875: Provided that lands granted or reserved by the Crown for the purpose of any town or village through which the Railway may pass shall be deemed for the purposes of this Act to be Crown lands heretofore granted, over which the Government had reserved the right to make roads for the public good by order of the Government. **Railway to be deemed a public road.**

9. The Governor is hereby empowered to construct the Railway or any part or parts thereof, either departmentally or by a contract or contracts or partly in the one way and partly in the other, according as he shall deem it most expedient. **Construction may be departmentally or by contract.**

10. For the purpose of the construction of the Railway or any part thereof by contract, the Governor may enter into a contract or contracts for the execution of the works required for the above-mentioned Railway, that is to say :— **Contracts for works.**

1st. For the construction of the whole of the works required for the above-mentioned line up to formation level, and including the provision and laying of all ballast, the laying of all permanent way material and the erection and provision of all fencing which Government may order together

Act 49, 1906.

with the maintenance of the whole of the aforesaid works for a period of twelve months after their completion.

- 2nd. For the purchase of all permanent way materials required for the construction of the aforesaid line.
- 3rd. For the provision and erection of all stations, station works, and works accessory thereto.
- 4th. For the purchase and erection of all electric telegraph material :

Provided that it shall be lawful for the Governor to fix and appoint the several sections to be constructed under any such contract, and the time to be allowed for their construction.

Engineers and workmen.

11. The Governor may employ all engineers, clerks, workmen and other persons for the purposes of the said contract or contracts, and for superintending the construction and maintenance thereunder of the Railway, and for the maintenance and working of the Railway until six months after completion, and pay to all or any such persons such salaries, wages or remuneration as may from time to time be voted by Act of Supply.

Construction and working may be delegated.

12. The Governor in Council may, if it shall seem expedient so to do, authorise any person or company to construct and work the Railway authorised by this Act instead of its being constructed and worked by the Government. The resolution of the Governor in Council confirming such authority shall be published in the *Natal Government Gazette*.

Conditions on which delegation may be made.

13. Such authority shall not be granted unless such person or company (hereinafter called "the Constructor") shall have first entered into a written agreement with the Government, in which there shall be set forth the time within which the Railway must be completed and ready for traffic, the conditions to be observed in regard to the strength and character of the works, the requirements in regard to road crossings, gates, fences and any other matters relative to construction and maintenance, the terms upon which the engines and rolling stock of the Natal Government Railways may be used, the mutual running powers to be enjoyed, the apportionment of receipts for traffic passing over the lines of the respective parties, and any other conditions which the Government may think proper in the interests of the public safety or otherwise.

The agreement shall be laid before both Houses of Parliament as soon as may be after its execution.

In so far as such agreement relates to the use of engines and rolling stock, the apportionment of receipts, and other matters connected with the working of the Railway, it may be varied

from time to time by a similar agreement which shall also be laid before Parliament as above provided. **Act 49, 1936.**

14. Upon the publication of the resolution of the Governor in Council the Constructor shall have full power and authority to construct the Railway authorised by this Act and to take, purchase and acquire any necessary lands according to the provisions of the Lands Clauses Law of 1872. Any waste lands of the Crown over which the Railway may pass shall, up to the limit of 100 feet in width, be placed at the disposal of the Constructor without charge, but subject to any rights which the Government may reserve in regard to road crossings, mining, or otherwise. **Powers to constructor.**

15. The Railway shall not be opened for traffic until it shall have been certified to be fit for such traffic by the engineer to be appointed by the Government, and if the Constructor intends to open the Railway for passenger traffic or for any public traffic it must be similarly certified for that purpose before being opened for any such purpose. **When to be opened for traffic.**

16. The Railway, if made under the authority as aforesaid, shall belong to the Constructor, who shall have the right to levy tolls and make charges for the conveyance of passengers, goods, merchandise and others upon such Railway, such tariff of tolls and charges being subject to the approval of the Governor in Council. **Right to levy tolls, &c.**

17. The Constructor may use on the Railway authorised by this Act, cars and carriages with flanged and other wheels, suitable to run on the prescribed rails, and, subject to the provisions of this Act, the Constructor shall have the exclusive use of the said Railway for cars or carriages with such wheels as may be suitable to run on the prescribed rails. **Cars and carriages.**

The cars, carriages, trucks, or other vehicles used on the said Railway may be propelled by animal, steam, or other motive power. **Motive power.**

18. The Constructor shall be answerable for all accidents, damages, and injuries happening through his wrongful act or default, or through the wrongful act or default of any person in his employment, by reason or in consequence of any of his works or of his engines or carriages, and shall save harmless all road and other authorities, companies, or bodies, and their officers and servants, from all damages and costs in respect of such accidents, damages, and injuries. **Liability for accidents and damages.**

19. The Constructor may, subject to the approval of the Governor in Council, make by-laws with respect to **By-laws.**

The fares chargeable to passengers using the Railway and for the carriage of goods on the Railway authorised

Act 49, 1906.

to be constructed under this Act, and for regulating the traffic thereon ;

Frauds by passengers attempting to avoid payment of their fares ;

The interference with or obstruction of any of the works authorised under this Act by any person ;

The arrest and detention of offenders against any such by-laws ;

The prohibiting of any person carrying, or requiring to be carried on the Railway, any goods which may be of a dangerous nature ;

The prohibiting of any person using the Railway, or any portion thereof, unless duly authorised by the said Constructor ;

And to impose any penalties for the breach of any such by-laws, provided that no penalty shall exceed a fine of Five Pounds (£5) Sterling, or in default of payment of any such fine, imprisonment with or without hard labour for a period not exceeding one month.

Prosecutions.

20. The Constructor shall be empowered to prosecute by any person whom he may appoint any offenders against such by-laws before the Magistrate of the Division in which such offence is committed.

Regulations may be made by governor.

21. The Governor in Council may from time to time make such regulations as he may deem expedient for securing the safety of the public from personal injury, or from fire or otherwise, and may from time to time rescind, alter or repeal such regulations. Any regulations so made or amended by the Governor in Council, in pursuance of this section, shall have the like effect in every respect as if they had been included in this Act. Notice in writing shall be given by the Government to the Constructor of any such regulations, or of any repeal or alteration thereof at least a month before the regulation, repeal, or alteration is made by the Governor in Council.

Particulars of cost, revenue, &c.

22. The Constructor shall be bound, if required, to furnish the Governor in Council with full particulars as to the cost of construction of the said Railway, and also of the revenue and expenditure of the same from time to time.

Purchase of Railway, &c. by government

23. The Governor in Council shall be empowered at any time after the expiry of twenty-five years from the date of the commencement of this Act to purchase and take the Railway, together with the works, buildings and appurtenances thereof, and the Constructor shall be required to sell, transfer and hand

over to the Government the Railway with the works, buildings and other things so purchased. **Act 49, 1906.**

Notice of the intention to purchase and take the Railway shall be given in writing to the Constructor not less than twelve and not more than twenty-four months before the date appointed for the purchase. Such notice may be given at any time after the expiry of twenty-four years from the commencement of this Act.

The purchase price if not agreed upon shall be determined by arbitration.

The purchase price shall be determined according to the value of the works and other things purchased at the time of purchase without taking into consideration compulsory purchase, statutory rights, goodwill or profits, but in no case shall the value exceed the amount for which the works could be constructed at the time of purchase. **Purchase price.**

24. The General Manager on being thereto authorised by the Minister, shall have all necessary powers for constructing sidings, connected with the Railway authorised by this Act, or to connect the said Railway with any neighbouring public or private railway; and the Government or owners of any such siding or other railway shall be empowered to obtain running powers and rights of user over the Railway authorised by this Act in manner provided by an Act passed in the present Session of Parliament and entitled an Act "To give certain powers in relation to private railways connected with the Natal Government Railways." **Power to construct sidings.**

Act No. 50, 1906.

"To give certain powers in relation to private railways connected with the Natal Government Railways."

[15th September, 1906.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. In this Act:—

"Minister" means the Minister having charge of the Department of Railways. **Interpretation.**

"Railway" includes a tramway, a siding, or the like.

"Person" includes a corporation, company, partnership, or other association.

Act 50, 1906.

“Owner” includes a lessee or any person having the control of a railway.

Running powers.

2. Whenever one or more lines of private railway branches or extends in succession from any part of the Natal Government Railways, it shall be competent for the General Manager of Railways, upon the application of the owners or lessees of any of the adjoining properties on which Railway communication is desired, to give such running powers and rights of user over the intervening Railway or Railways, as will suffice for the traffic to and from the applicants' property.

Notice to be given.

3. The General Manager shall give one month's notice in writing to the owner of every Railway over which running powers and rights of user are desired of the intention to exercise such powers and rights.

Payments for running powers, how fixed.

4. The General Manager shall, unless the parties agree between themselves, fix the terms of payment to be made by the owners of each railway to the owners of the railway or railways over which such powers and rights are to be exercised.

Such payments shall comprise:—

- (a) A contribution by way of interest upon the capital cost of the railways which are so made use of.
- (b) A charge for the use of the railways.

Adjustment of payments.

5. The payments of interest shall be so adjusted as to effect an equitable apportionment between the successive railways of the burdens of capital cost, maintenance and renewals.

Such payments may be readjusted by the General Manager from time to time as the railways are extended, or as the conditions vary.

Rights and obligations in respect of running powers and user.

6. The owners of every railway which shall be brought within the operation of the preceding sections of this Act shall be bound to allow running powers and rights of user to be exercised in such manner and to such extent as may be mutually agreed, or, failing such agreement, as may be appointed by the General Manager, and shall pay or be paid the interest and charges as fixed by the General Manager, and at the times which he may appoint: Provided that if the owner of any railway is dissatisfied with a decision of the General Manager he may, upon notice to all other parties concerned, bring the matter before the Minister, who after such enquiries as appear proper, shall submit the case to the Governor in Council, and the decision of the Governor in Council shall be final.

Rights of action.

7. The owners of any railways to whom this Act applies shall have all rights of action and remedies of law for the enforcement of the mutual obligations created under this Act in like

manner as if such obligations were created by contract between the parties. Act 50, 1906.

Where the running powers and rights of user provided for by this Act are exercised by the General Manager under arrangement with any railway the General Manager, acting for the Colonial Government, shall have the same rights and remedies for enforcing the fulfilment of the obligations of the several railways in this respect as are hereinbefore given to the owners of any such railways.

8. (1) Upon application being made to the Minister by the owners of any railway, or by any person who proposes to construct a railway, to have such railway connected with the Natal Government Railways either directly or through the medium of any intervening railway, the Minister may, by such officer as he shall depute for the purpose, exercise all or any of the following powers:—

Procedure where owners or other persons desire to connect with N.G.R.

- (a) To enter upon any lands and to make such inspections and surveys as may be required to satisfy him whether it will be of advantage in the public interest that the application should be granted, and as to the route and other matters of information regarding the proposed line of connection.
 - (b) To lay out and make such railway as may in his opinion be required for the purpose of connecting the applicant's railway with the Natal Government Railways or with any intervening railway, together with all adjuncts and accessories proper to the completion of such railway, and for that purpose to enter upon purchase and acquire any lands which may be required, and to do all things and to exercise all powers incidental to the construction of the railway.
 - (c) To authorise the applicants to construct the required railway, subject to the supervision and approval of the Minister.
- (2) The exercise of the powers under this section shall be effected according to the provisions of the Lands Clauses Consolidation Law, 1872, which is hereby incorporated with this Act for the aforesaid purposes.
- (3) All expenses and costs incurred in and about the exercise of the powers under this section shall be

Act 50, 1906.

borne by the applicants, inclusive of any compensation or the like which may be payable, and of the costs of any legal proceedings.

- (4) Before acting under the powers given by this section the Minister shall require the applicants to give such security as he may think proper for the expenses and costs to be incurred.
- (5) The powers under this section shall not be exercised in any case in which the distance to be covered by the connecting railway exceeds twelve miles in a direct line.

Right of
expropriation.

9. (1) The Governor in Council shall have the right at any time to purchase and take over any railway which is connected with the Natal Government Railways either directly or through the medium of another railway, and the owners of such railway shall be required to sell, transfer, and hand over to the Government the railway together with the equipment and adjuncts thereof.
- (2) Six months' notice in writing shall be given of the intention to purchase such a railway.
- (3) The purchase price shall be determined according to the value of the works at the time of purchase, without any addition in respect of compulsory purchase, statutory rights, goodwill or profits, save that there shall be added to the value ascertained as aforesaid a sum equal to five per cent. on the capital expended.
- (4) Nothing in this section shall be deemed to affect the provisions of any special Act under which powers are given for the compulsory purchase of any railway.

Act No. 55, 1906.

“To authorise the construction and working of a line of Railway from Vryheid to a point on or near to the farm Parijs, in the District of Vryheid, and to ratify a contract made between the Government and Gustave Henry Bonas, relative to the construction, maintenance, and working of the said Railway, the supply of coal to the Government and

the establishment of iron and steel works in the district adjacent to the said Railway.” **Act 55, 1906.**

[21st December, 1906.]

WHEREAS the Minister of Railways and Harbours, as representing the Colonial Government of Natal, and Gustave Henry Bonas, of Kimberley, in the Colony of the Cape of Good Hope, have entered into a contract whereby the said Colonial Government undertake to construct on behalf of the said Gustave Henry Bonas a line of railway from Vryheid past Hlobane to a point on or near to the farm Parijs in the district of Vryheid, and to maintain and work the same for a period of twenty-five years, all upon certain terms in regard to payment and otherwise, and the said Gustave Henry Bonas undertakes to establish a colliery or collieries and iron and steel works adjacent to the railway and to supply the Government with coal from the said collieries; in consideration of which several matters certain mutual obligations were entered into by the parties :

AND WHEREAS the said contract is made subject to ratification by an Act of Parliament, and it is expedient in the public interest to ratify the same, and to grant the necessary powers for the construction, maintenance, and working of the said railway, and for the fulfilment of the mutual engagements of the parties to the contract :

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. The contract entered into on the 10th and 14th days of November, 1906, between the Minister of Railways and Harbours as representing the Colonial Government of Natal (hereinafter called “The Government”) and Gustave Henry Bonas, of Kimberley in the Colony of the Cape of Good Hope (hereinafter with his heirs, executors, administrators, and assigns referred to as “The Owner”), as varied and amended by a later agreement bearing date the 10th December, 1906, copies of which contract and agreement form the schedule of this Act, is hereby ratified and confirmed, and the several mutual covenants and agreements therein contained are declared legal and binding between the Government and the Owner, all the necessary powers and authority being hereby conferred upon the Government and its officers for giving full and complete effect thereto.

Ratification
of Contract.

All references in this Act to the said contract shall be understood as references to the said contract as varied and amended by the subsequent agreement above referred to.

Act 55, 1906.

Governor
empowered to
construct
railway.

2. The Governor shall be empowered to construct the railway described in the said contract, in the manner and subject to the conditions provided for by the said contract and by this Act, and for that purpose he shall be lawfully entitled to take and use permanently or temporarily all such lands as shall be required for the purposes of the railway, and to carry out all necessary works, and to do all things necessary or incidental to the exercise of the powers hereby granted.

Incorporation
of Lands
Clauses Con-
solidation Law

3. The Lands Clauses Consolidation Law of 1872, except as varied by this Act, is incorporated with this Act.

Nothing in the said Law shall be deemed to require the filing of any maps or plans with the Clerk of either House of Parliament before the passing of this Act, but copies of such maps and plans as are in the said Law referred to shall be lodged with the Clerks of the Legislative Council and Legislative Assembly as soon as possible after the preparation thereof.

Route.

4. The railway shall commence by a junction with the Natal Government Railways at the terminus thereof at Vryheid, and shall proceed past Hlobane to a point on or near to the farm Parijs in the district of Vryheid, the route and point of termination to be determined as provided in the aforesaid contract.

Railway to
be deemed to
be a road.

5. The railway shall, in respect of all lands heretofore granted in quit rent, or freehold or leasehold, or any other tenure whatsoever, and in or over which the railway or any part thereof shall be made, be deemed to be a road made or to be made for the public good by order of Government, and accordingly the proprietors of such lands shall not, except in the cases specially provided in their several title deeds, deeds of grant or other documents of title, be entitled to any compensation for the land taken for the purposes of the railway, and in cases where compensation is payable, the amount of such compensation shall be determined in accordance with the provisions of the Law No. 19, 1875: Provided that lands granted or reserved for the purpose of any town or village through which the railway may pass shall be deemed for the purposes of this Act to be lands heretofore granted over which the Government had reserved the right to make roads for the public good by order of the Government.

Railway to be
subject to the
laws and regu-
lations applic-
able to the
N.G.R.

6. The railway when constructed and taken over as provided in the said contract, and so long as it shall be worked and maintained by the Government, or when expropriated in terms of the contract, shall be managed as a part of, and subject to the laws and regulations applicable to, the Natal Government Railways.

The railway shall nevertheless be the property of the Owner until it shall have been acquired by the Government. This

provision shall not, however, affect the ownership of the lands upon which the railway shall be constructed. **Act 55, 1906.**

7. The railway and electric telegraphs and all stations, lands, works, property and things belonging thereto, or held in connection therewith, shall be for ever exempt from all highway, municipal, police and other local rates and taxes now or hereafter to be made or imposed. **Exemption from rates and taxes.**

8. Any claim which the Colonial Government may at any time have for moneys due by the Owner, with the interest thereon, in respect to the construction of the railway or any capital charges in connection with the railway or the Owner's share in the losses of management and working as provided in the contract, shall be a first charge upon the railway and all the Owner's interest therein and upon all buildings and things of whatever kind forming a part of the railway or used in connection therewith, and shall be preferent to all bonds and other charges whether of earlier or later date, and howsoever effected. **Claims by Government upon owner to be a first charge upon the railway.**

9. At the expiry of the aforesaid contract the railway therein referred to may at all times thereafter lawfully continue to be maintained and worked, either as a part of the Natal Government Railways, if expropriated by the Government, or if not so expropriated, as a private railway, and in the latter case it may either be maintained and worked by the Owner or by the Government under any agreement which may be made in that behalf. **How railway may be worked at expiry of contract.**

In every such case the Government shall give all necessary facilities and running powers for enabling the railway to be efficiently worked in connection with the Natal Government Railways or any railways maintained and worked by the Government.

So long as the said railway is used as a private railway all traffic, including passengers, animals, mails, parcels, goods and other things passing to and from the railway shall be carried upon the most favourable terms in regard to rates and fares which are for the time being given to similar traffic of the respective kinds on the main line and branch lines of the Natal Government Railways, so far as it may be carried over such lines, and the Administration or any person by whom the railway shall be carried on shall receive and carry all such traffic over the railway to and from the Natal Government Railways at mileage rates not exceeding the respective rates for similar classes of traffic carried on the line from Glencoe Junction to Vryheid inland or seawards as the case may be, or otherwise at such respective rates as may from time to time be set forth in a tariff approved by the Governor in Council. **Rates and fares.**

Act 55, 1906.Saving of
rights of
Government.

10. Nothing herein contained shall prevent the Government from constructing lines of railway in continuation of or branching from the railway the subject of this Act, or from exercising running powers over the same for the purpose of such other railways, or in any way conflict with or limit the application of Act No. 50, 1906.

Act 11, 1905.

11. Nothing contained in the Vryheid Extension Railway Act, 1905, shall be deemed to affect the railway the subject of this Act.

Short title.

12. This Act may be cited as "The Hlobane Railway and Coal and Iron Industries Act, 1906."

Schedu

SCHEDULE.

THIS CONTRACT made between the Honourable JOHN GEORGE MAYDON, in his capacity as Minister of Railways and Harbours and as such representing the Colonial Government of Natal (hereinafter called "The Government") of the one part, and GUSTAVE HENRY BONAS, of Kimberley, in the Colony of the Cape of Good Hope, his heirs, executors, administrators, and assigns (hereinafter called "The Owner") of the other part,

WITNESSETH :—

That the parties have agreed and contracted with each other as follows :—

1. In this contract the following expressions shall have the following meanings, respectively :—

Interpreta-
tion of terms.

"The Railway" means the railway hereinafter described and to be constructed under this contract, together with all buildings, erections and conveniences to be made in connection therewith.

"The Minister" means the Minister for the time being in charge of the Department of Railways.

"The Engineer-in-Chief" means the Engineer-in-Chief of the Natal Government Railways.

"The Owner's Engineer" means the engineer appointed by the Owner to act on his behalf.

"The Administration" means the Railway Administration of the Government.

"Person" includes a society, company or corporation.

"General Manager" means the General Manager of Railways in Natal.

Date of
commence-
ment of
contract.

2. This contract shall not take effect unless and until it shall have been confirmed by an Act of Parliament, and any reference to the date of the commencement of this contract shall be

deemed to be a reference to the date of the publication of the Act in the *Natal Government Gazette* (a). **Act 55, 1906.**

3. Within ten days after the date of the signature of this contract by the Minister the Owner shall lodge with the Treasurer of Natal or the Agent-General for Natal in London security either in money or other securities approved by the Treasurer or Agent-General to the extent of Twenty Thousand Pounds (£20,000) Sterling, for the due and faithful performance of this contract, which security shall be held by the Treasurer or Agent-General on the conditions hereinafter stated. **Security for due performance.**

If the security consists of money the Government shall pay the Owner interest thereon half-yearly at the rate of three and a half per centum per annum, and if it consists of other securities, arrangements shall be made for allowing him to receive the interest or dividends accruing thereon without liability on the part of the Government.

4. The Government undertakes with diligence and expedition to construct the railway on behalf of the Owner, subject to the Owner's obligation to supply the necessary money, and to equip the same so as to be ready and fit for being opened throughout for the public carriage of passengers, animals, goods, minerals, mails, parcels, and all other traffic within the time hereinafter described. **Government to construct the railway.**

5. (1) The railway shall be as follows:—

A railway commencing by a junction with the existing line of the Natal Government Railways at the Vryheid terminus, thence proceeding by the most practicable route past Hlobane to a suitable point on or near to the farm "Parijs" in the district of Vryheid, distant approximately thirty-seven and one half miles from the Vryheid terminus.

The route of the railway shall be determined by the Engineer-in-Chief. Before so determining the Engineer-in-Chief shall consult with the Owner or his Engineer, and shall endeavour to meet the Owner's wishes and requirements so that the railway shall be in all respects suitable to the projected development of the coal and iron industries to be established by the Owner in the said district (b). **Route.**

(2) The railway shall comprise,—

(a) Such two special sidings with appliances as may at any time be required by the Owner to afford access

(a) The Act No. 55, 1906, was published in the *Natal Government Gazette* of 21st December, 1906.

dated 10th December, 1906, the following words are added: "The decision of the Engineer-in-Chief in regard to the route of the railway shall be final."

(b) By supplementary contract, post,

Act 55, 1906.

from the railway to the collieries or other works to be established by the Owner at or in the vicinity of Hlobane, and such other point as the Owner may select for the erection of his iron and steel works.

- (b) All such sidings, passing places, stations, offices, engine houses, goods and cattle depots, turn-tables, water supplies, signals, signal-cabins, telegraphs and other works as shall reasonably be necessary for the due and efficient maintenance and working of the railway.
- (c) All such under and over bridges and level crossings, accommodation roads, approaches, cattle creeps, water courses, drains, culverts, and other works as may reasonably be necessary for the accommodation or protection of the lands intersected by the railway.
- (d) The erection of fences along the route of the railway, provided that such fences shall not be of a more expensive character than those erected along the main line of the Natal Government Railways.

Gauge.

(3) The railway shall be laid out and constructed as a single line of the standard three feet six gauge of the Natal Government Railways. It shall be laid with rails weighing not less than sixty pounds to the yard of British standard section, and the whole of the permanent way shall be of the same pattern, dimensions and character as are now in use upon the Upper Tugela Railway. The bridges shall be designed and built to carry the heaviest trucks and engines now in use upon the Natal Government Railways, and all such permanent way, bridges, and appliances generally, shall be subject in all respects to the approval of the Engineer-in-Chief.

Gradient and curvature.

(4) The limiting gradient shall be one in 50 compensated for curvature, and the least radius of curvature five hundred feet unless the character of the country to be traversed shall reasonably demand the adoption of steeper grades and sharper curves (a).

Surveys and specifications to be approved

6. Subject to the determination of the route by the Engineer-in-Chief, the surveys and specifications of the railway shall be approved by the Owner's Engineer.

Engineers of respective parties to agree details.

7. As soon as may conveniently be after the commencement of this contract the Owner's Engineer shall agree with the

(a) By supplementary contract, post, the following words are added: "The decision of the Engineer-in-Chief in regard to the grades and curves shall be final."

Engineer-in-Chief any details in regard to surveys, plans, locations, sections, curves, gradients, stations, telegraphs, fences, water supplies, works of art, types, designs and the like, and any other matters relative to construction and equipment which may be necessary and proper for implementing this contract (a).

Act 55, 1906.

8. The Government shall begin the surveys immediately upon the commencement of this contract, and shall complete the same and commence and carry on the construction of the railway with all diligence.

Railway to be completed within 24 months.

The whole railway shall be completed and equipped in all respects in accordance with this contract within twenty-four months from the date of the commencement of this contract (b).

Provided that if the completion of the railway should be unavoidably delayed owing to war, rebellion, storms, strikes, lock-outs or other causes beyond the control of the Government, the Government shall be entitled to a reasonable extension of time within which to complete it. Should any dispute arise between the parties as to the grounds for such extension of time, or as to the time to be allowed, the question shall be decided by arbitration.

Proviso for delays.

This clause does not include the special sidings mentioned in paragraph 2 (a) of Clause 5, which sidings shall be completed, with the necessary appliances, within a reasonable time after notice is given by the Owner to the Government to construct the same (c).

9. The Bill to be placed before Parliament shall contain the usual Government authority for entering upon lands without payment of compensation subject to the exceptions ordinarily contained in Acts of Parliament authorising the construction of Natal Government Railways, this agreement being entered into upon the faith of such authority being granted.

Compensation for lands taken.

10. (1) As far as possible the land required for the railway shall be shewn upon the plans of the preliminary surveys, but at any time during the construction the Government shall obtain such additional lands as may (d) be required for the railway.

Limitation of lands to be taken.

(2) The lands to be so used shall not exceed 100 feet in width except where a greater width or isolated portions of land may be necessary for the purposes of and incidental to the construction of the railway and works.

(a) See words added by supplementary contract, post.

(c) See words added by supplementary contract, post.

(b) See words added by supplementary contract, post.

(d) By the supplementary contract the following words are here inserted: "in the opinion of the Engineer-in-Chief."

Act 55, 1906.

Right of owner's engineer to examine railway, &c., during construction.

11. The Owner's Engineer may at all reasonable times during the construction of the railway enter upon and examine the railway and all materials and work pertaining thereto, and the Government shall afford to the Owner's Engineer such information as may be within their knowledge and power in all matters enquired into by him, and shall on his demand submit to him all plans, specifications, drawings and documents relating to the materials, construction, repairs, or state of repair of the railway or any portion thereof.

Cost of undertaking, by whom borne.

12. The whole cost of surveying, staking and laying out of the railway and of obtaining the lands to be occupied as aforesaid and the cost of the construction and equipment of the railway (except as to engines and rolling stock required for working the same), and of all labour and materials for the same, inspection of material and engineering supervision, and all other incidental expenses reasonably incurred by the Government, shall be borne and paid by the Owner.

Requisitions for moneys as required.

13. The Engineer-in-Chief shall from time to time, subject to fourteen days' notice, make requisitions in writing for all moneys required under the preceding clause, and the Owner shall on the due date of any such requisition pay to the Treasurer of Natal the sum stated therein.

Such requisitions shall ordinarily be made quarterly for the moneys estimated to be required for the coming quarter, but special requisitions may be made at any time should the Engineer-in-Chief consider it necessary.

Similar requisitions, subject to the same notice, may from time to time be made by the Agent-General for Natal to the Owner in London for moneys required to be paid there, and the Owner shall similarly pay the sums so requisitioned for to the Agent-General at his Office.

The Engineer-in-Chief or Agent-General may, on fourteen days' notice, require the owner to give approved security before issuing indents or orders for bridge work or other things of considerable value, and the Owner shall give the security so required.

Cost of railway carriage of plant and material.

14. The cost of railway carriage in Natal of all plant and railway material during construction will be charged at the construction rate of One Penny per mile per ton of Two Thousand Pounds (2,000 lbs.).

After the completion of the railway such plant and railway material as may be properly chargeable to capital account shall likewise be carried at the construction rate aforesaid.

The carriage of such further plant and material as may be

chargeable to maintenance account shall be carried at the ordinary rates. Act 55, 1906.

15. The construction of the railway shall be carried out to the satisfaction of the Owner's Engineer, and before being taken over by the Administration to be opened for traffic as hereinafter provided shall be certified by him as having been completed to his satisfaction (a). Railway to be certified by owner's engineer.

16. When the railway or the section thereof from Vryheid to Hlobane shall be completed and certified as ready for traffic the Administration shall take over, maintain and work the railway or such section as if it formed part of the Natal Government Railway system. Railway to be taken over.

Provided always that the continuance of such undertaking shall be contingent upon the Owner fulfilling the obligations placed upon him in regard to the establishment of iron and steel works under Clause 33 of this contract, and upon his failure to carry out such obligations in terms of this contract the undertaking contained in this clause [shall at once cease and determine (b)] together with the provision hereinafter contained in reference to the division of profits and losses. Proviso.

17. The whole of the railway shall be the property of the Owner, subject to the rights hereby given to the Government. Property in railway.

18. The Administration shall, at all times, put and use upon the railway a suitable type of engine and rolling stock in sufficient quantity to meet the requirements of the iron and coal industries to be established by the Owner in the district served by the railway, and shall give every reasonable facility for the development and extension of such industries (c). Engines and rolling stock.

19. The rates and fares to be charged upon passengers, animals, goods, minerals, parcels, and all other traffic upon the railway, that is to say, from any station to any other station on the railway and to any station on the Natal Government Railways and *vice versa*, shall be in accordance with the tariffs of the Natal Government Railways from time to time in force: Provided that the Government may as regards the line from Vryheid to the terminus charge the same rates and fares per mile as are from time to time in force for traffic on the line from Glencoe Junction to Vryheid, but provided also that the rates for iron, and coal and for any other industrial products of the Owner's Rates and fares.

(a) See clause added by supplementary contract, post. Government at once cease and determine."

(b) By the supplementary contract the words in brackets are altered so as to read: "may in the discretion of the (c) See clauses added by supplementary contract.

Act 55, 1906. works or factories in the district served by the railway shall at all times be the most favourable which are from time to time granted respectively to similar classes of things on any part of the Natal Government Railways for traffic within the Colony or for traffic passing out of the Colony, as the case may be.

Mails. All mails, including postal parcels, shall be carried upon the railway upon the same terms as those under which mails are for the time being carried by the Natal Government Railways for the Postal Department.

Telegraph system to be taken over and worked by Government. 20. As soon as the railway or the section thereof from Vryheid to Hlobane is opened for traffic the telegraph system upon the railway or upon such section shall be taken over by the Telegraph Department of Government, and shall be maintained, worked, and used as a part of the general system of Government telegraphs, at the cost and for the profit of Government, and the Government shall pay the revenue account of the railway for telegrams sent over the aforesaid telegraph lines upon the same basis as is adopted by Government in connection with telegrams sent over the telegraph lines of the Natal Government Railways, except that there shall be no charge for messages in the course of the working or business of the Railway and Telegraph Departments or messages on the public service.

Interest on cost of railway. 21. (1) The Government shall pay to the Owner or to a trustee to be named by him interest at the rate of three and a half per cent. per annum on the cost of the railway up to the limit hereinafter stated.

Such interest shall be paid half-yearly in Natal, the first payment to be made on the 30th day of June or the 31st day of December next following the day on which the whole of the railway shall be opened for traffic, and thereafter payments shall be made on the 30th day of June and the 31st day of December in each year.

(2) The cost of the railway shall include :

- (a) All payments made by the Owner to the Government for or on account of the construction of the railway as hereinbefore provided :
- (b) The salary and office expenses of the Owner's engineer upon the railway.
- (c) Such a sum, in no case exceeding five per cent., as the Owner may show that he has actually and properly paid in raising the money required for such payments as aforesaid :
- (d) Bank commission and exchange between London and the Colony.

All such charges to be first certified by the Auditor-General **Act 55, 1906.**
as properly chargeable to the construction of the
railway.

To the above charges shall be added interest at the rate of three and a half per cent. per annum upon all payments made by the Owner to the Government as aforesaid from the date of each such payment up to the day on which the whole of the railway shall be opened for traffic.

The total of all such sums as are mentioned in this sub-clause shall be deemed to be the cost of the railway.

Provided that for the purpose of the payment of interest by the Government as aforesaid the cost of the railway shall in no case be deemed to exceed the sum of Two Hundred and Forty Thousand Pounds Sterling. Limitation of interest

(3) As evidence of any payments which under the preceding Sub-clause are to be included in the cost of the railway, the Owner shall produce to the Engineer-in-Chief or to any auditor or auditors appointed by the Government for the purpose all vouchers for such payments, and shall give all necessary information and afford all facilities for verifying the payments.

(4) The continuance of payment by the Government of such interest shall be contingent upon the Owner fulfilling the obligations placed upon him under Clause 33 of this contract in regard to the establishment of iron and steel smelting works, and upon his failure to carry out such obligation in terms of this contract the liability of the Government for such interest shall at once cease and determine.

(5) The Government's liability for such interest shall in any case cease at the expiry of twenty-five years from the date of the commencement of this contract. When interest to cease.

(6) Save as aforesaid the liability of the Government for the payment of such interest shall be absolute and unaffected by any debt which may be owed by the Owner to the Government, and no such debt shall be set off against the payment of interest by the Government.

22. From the time when the railway or such section thereof as aforesaid shall have been opened for traffic, the profits and losses of working and maintaining the railway shall be divided equally between the Owner and the Government in manner hereinafter determined. Division of profits.

23. (1) The administration shall render half-yearly returns terminating on the 30th June and 31st December of each year, and setting forth the revenue derived from the railway, which shall be ascertained and determined as follows:— Revenue of railway, how determined.

(a) The receipts derived from all traffic which both arises

Act 55, 1906.

and terminates upon the railway shall be credited to and reckoned as the revenue of the railway.

- (b) The receipts derived from through traffic passing from the railway to the Natal Government Railways or *vice versa* shall be apportioned rateably according to the mileage over which such traffic shall pass on the railway and the Natal Government Railways. The agent or officer appointed by the Owner for the purpose shall be at liberty to examine all books and documents necessary for the verification of the accounts.

(2) The administration shall also furnish returns shewing the expenses for the half-year of the management, working and maintenance of the railway made up in the same manner and upon the same basis as is customary in making up similar accounts for branch lines of the Natal Government Railways, including charges for the use of rolling stock and terminal charges, together with such other charges as may properly be brought into account, but not including the half-yearly interest payable by the Government on the cost of the railway.

A memorandum setting forth generally the basis of calculation of such expenses shall be agreed between the Owner and the General Manager of Railways.

How profits
are to be
determined.

24. The difference between the receipts and expenses shown in the aforesaid returns shall be the profit or loss to be divided equally between the Owner and the Government, and any sum shown to be due by the Government to the Owner or by the Owner to the Government shall be paid by the one party to the other not later than the month of August or February following the end of the half year to which the returns relate.

Provided, however, that the Government shall not be required to divide the profits earned in any half year unless they exceed the sum payable to the Owner by way of such interest as aforesaid for the same half year, and the excess only shall be so divided.

No profits or losses shall be carried over from any half year into another, each half-yearly account constituting a final adjustment to date.

Arrangements
to cease at
expiry of 25
years.

25. The above described arrangements relative to the working and maintenance of the railway by the Government and the division of profits and losses shall cease at the end of twenty-five years from the date of the commencement of this contract.

26. If during the time the railway is maintained and worked by the Government the General Manager shall consider it necessary or advisable to make additions or improvements to the railway or any other works which in his opinion would probably form a charge against capital account and not against maintenance, he shall give notice thereof to the Owner, and if the Owner does not assent to such works being carried out or to their being charged to capital account, the General Manager may, by notice to the Owner, call upon him to submit to arbitration in manner hereinafter provided the question whether such works are necessary or ought, in the proper and reasonable interests of the railway or of the development of the industries mentioned in this contract, to be carried out, or whether they are properly chargeable to capital account or not; and if by such arbitration it is decided that such works are necessary or ought to be carried out the General Manager may execute such works with such modifications as may be required by the award, and if it shall be decided that they are chargeable to capital account the Owner shall be obliged to pay the Government the cost thereof upon the completion of the work.

Act 55, 1906.

Additions or improvements to railway.

In so far as any such works constitute an addition to the railway, or effect an increased value beyond the original value of the things replaced or otherwise dealt with, an interest charge at the rate of three and a half per centum per annum upon the cost of such works or upon such increased value, as the case may be, shall be added to the interest charge payable to the Owner under the foregoing provisions of this contract, and shall be treated as a part thereof for the purpose of the division of profits.

27. If any work shall have been carried out and charged to maintenance account which in the opinion of the Owner are properly chargeable to capital account, he may, within two weeks after receiving the half-yearly returns object to the inclusion of such works in the maintenance account, and in the event of disagreement the question shall be decided by arbitration.

Objections to allocation of charges to maintenance account.

28. Nothing in the foregoing clause shall be deemed to prevent the General Manager from immediately carrying out any works which he may consider urgently necessary in order to prevent interruption of traffic or damage, but this shall not prejudice the determination of any question in regard to the charging of the cost to capital account or maintenance account. Notice of any such work shall be given to the Owner as soon as possible.

General Manager may carry out works urgently needed.

29. The Government shall have a first and preferent charge over the railway for any moneys due by the Owner (with the

Preferent charges by Government.

Act 55, 1906. interest thereon) in respect to construction or any capital charges or his share of losses.

Expropriation
of railway.

30. The Government shall have the right at any time before the expiry of 24 years from the date of the commencement of this contract to give notice in writing to the Owner of their intention to purchase and take over the railway at the expiration of the period of 25 years hereinbefore mentioned, and upon such notice being given the Owner shall and hereby obliges himself to sell, transfer and hand over the railway to the Government.

Purchase
price.

The purchase price shall be the whole cost of the railway ascertained as provided in Clause No. 21 (without the limitation of £240,000 therein mentioned), together with all further cost, if any, upon which the Government may pay interest in terms of Clause No. 26.

The purchase price of the railway shall be paid by the Government to the Owner in Natal.

Owner to open
and work a
colliery.

31. The Owner undertakes within a period of two years from the date of commencement of this contract to open and to have in full working order a colliery or collieries at or near Hlobane, from which he shall supply the Government with all such steam coal as the Government may wish to purchase for the Railway and Harbour departments. The first supply of coal to be made upon six months' notice to be given by the Government.

Quality of
coal.

All such coal shall be of the best quality produced in the Owner's collieries, screened, or washed and screened, and free from dross and other impurities, and fit in all respects for locomotive purposes or for use on steam tugs or dredgers.

Price of coal.

The price of such coal delivered free on truck at pit's mouth shall be five shillings per ton of 2,240 pounds for round coal, and if at any time the Owner or any Company working collieries in the neighbourhood of Hlobane under an agreement with him shall enter into a contract with any other consumer for the supply of round coal at a price less than that at which it is to be supplied to the Government under this contract, the Owner binds himself to reduce the price of round coal to the Government to the level of the lowest price charged to such other consumer.

Term of
clause.

This clause shall continue in force for a period of twenty-five years from the date of this contract.

Saving in
respect of
other con-
tracts,

This agreement shall not be deemed to prevent the Government from entering into contracts with any other persons or companies for the supply of coal (a).

a) See words added by supplementary contract.

32. The Owner promises and undertakes that he will not at any time during the existence of this contract either directly or indirectly combine with or enter into any ring or combination for the purpose of increasing the price of coal to any consumer or otherwise than in accordance with the natural fluctuations of the market (a). **Act 55, 1906.**
Owner not to artificially increase the price of coal.

33. The Owner binds himself to erect at a suitable place to be selected by him within the district extending from Hlobane to the farm Parijs, iron and steel works of a value of not less than Two Hundred Thousand Pounds (£200,000) Sterling, exclusive of the value of the land on which the works may be erected. Such work shall be commenced within six months after the opening of the railway for traffic, and shall be erected and completed and ready in all respects for commencing the manufacture of iron and steel not later than the [Thirty-first day of December, Nineteen Hundred and Ten (b).] **Owner to erect iron and steel works.**

34. In the event of the Owner carrying out his obligations in regard to the establishment of iron and steel works, the Government shall enter into an agreement for the payment to him of an annual bonus equal to five per centum on all wholesale sales of pig iron or manufactured iron or steel produced at the works aforesaid and disposed of for consumption in Natal in each of the first five years from the date when the manufacture of iron and steel shall be begun. Such bonus shall not, however, exceed Ten Thousand Pounds (£10,000) in any one year, and shall be reduced in proportion to any protection which may be given to the iron or steel so produced by the Customs tariff for the time being in force. **Bonus on products of works.**

35. The condition of the aforesaid deposit of money or securities to the value of Twenty Thousand Pounds Sterling shall be that, if the Owner shall punctually pay all moneys becoming due by him to the Government in connection with the construction of the railway, up to the time of the opening for traffic, and shall commence to erect and shall complete the iron and steel works in conformity with this contract, and shall furnish security to the satisfaction of the Government for the carrying out of his undertaking in regard to the supply of coal, the money or securities so deposited shall be returned to him, but if he fails either to make such payments or to commence and **Condition of deposit of £20,000.**

(a) The supplementary contract adds the words: "If the Owner commits any breach of the above promise the Government will no longer be bound by the provisions of Clause 18 of this contract,"

(b) The words "thirtieth day of June, 1911," are substituted for those in brackets by the supplementary contract.

Act 55, 1906. complete iron and steel works according to the requirements of this contract, or to supply coal under this contract, the whole of such money or securities shall be forfeited and become the property of the Government, it being the intent of the parties that inasmuch as the Government has entered into this contract in the public interests, and has undertaken the several liabilities hereinbefore set forth, the failure of the Owner to carry out any of such obligations as aforesaid shall be conclusively deemed to give the Government a liquid claim in damages for the full sum of Twenty Thousand Pounds (£20,000); and it is specially agreed that the fulfilment by the Owner of any one or more of such obligations shall in no way entitle him to a reduction of the said sum.

Interest on unpaid moneys.

36. It shall be a mutual obligation between the parties that if any money due or payable by either party to the other is not paid at the due date hereof, the same shall bear interest at the rate of six per cent. per annum from the due date.

Cession of contract.

37. The Owner shall be entitled to cede and assign this contract to any person, but he shall not thereby be relieved of his obligations under this contract unless the Government shall consent to his being so released.

Saving of general railway statutes.

38. Nothing contained in this contract shall exempt the railway or the Owner from the provisions of any general law or Act now in force or hereinafter to be passed relating to railways.

Officers of Government not personally liable under this contract.

39. No member or officer of the Government shall be in any wise bound personally for the acts and obligations of the Government under this contract, or answerable for any default or omission in the observance, performance or fulfilment of the acts, matters or things which are hereby made obligatory on the Government.

Saving of rights of Crown and of corporations.

40. Except so far as in this contract is otherwise expressly provided, nothing herein contained shall in any manner affect the rights of His Majesty or any person or corporation.

Free passes.

41. During the period of construction the Owner and the Owner's Engineer shall be entitled to free passes over the Natal Government Railways.

Extension of time for war, strikes, &c.

42. Should the Owner be unavoidably prevented owing to war, rebellion, storm, strikes, lock-outs or other causes beyond his control from carrying out his obligations under this contract, he shall be entitled to a reasonable extension of time within which to carry out any of his obligations. Should any dispute arise between the parties as to the grounds for such extension of time or as to the time to be allowed, the question shall be referred to arbitration.

43. In case and so often as any dispute, difference, or question shall arise between the parties hereto, or any persons claiming through or under them respectively relating to the construction, meaning or effect of this contract or any clause or thing herein contained, or any rights or liability hereunder, the subject of every such dispute, difference or question shall, in every case, on the demand in writing of either party, be referred to the arbitration and award of an umpire, if the parties can agree to an umpire, and in case they cannot agree then to two arbitrators and an umpire. Such arbitration shall in either case be according to the provisions of the Arbitration Act of 1898, or any other Act which may then be in force.

Act 55, 1906.
Arbitration.

44. All notices to be given to or requisitions to be made upon the Owner for the purposes of this contract shall be in writing under the hand of the Minister or Engineer-in-Chief, or the Agent-General, and shall be delivered to or left for the Owner with such person and at such convenient place as the Owner shall from time to time appoint [in Natal and London (a)] respectively (which appointment the Owner hereby undertakes to make), or failing such appointment at the address as set forth in the caption of this contract, or at his principal or last known place of business in Natal, and every such notice shall be deemed to have been given at the time when it shall have been so delivered or left.

Notices, how
to be made
and delivered.

The owner accepts *domicilium citandi et executandi* at the place to be appointed in Natal as aforesaid for the purposes of all suits or proceedings which the Government may wish to institute in Natal, and at the place to be appointed in London as aforesaid for the purposes of any suits or proceedings which the Government may wish to institute in England.

*Domicilium
citandi et
executandi.*

45. It shall be provided in the Bill to be laid before Parliament that at the expiry of this agreement, whether the railway shall have been expropriated by the Government or not, it may continue to be maintained and worked as a part of the Natal Government Railways or as a private railway, as the case may be; that all necessary facilities and running powers shall be given for enabling the railway to be efficiently worked in connection with the Natal Government Railways; that all traffic, including passengers, animals, mails, parcels, minerals, goods and other things passing to and from the railway shall be carried upon the most favourable terms in regard to

Maintenance
and working
at expiry of
term.

(a) The words in brackets are, by the supplementary contract, altered to read—
“In Natal ^{and} London.”
or

Act 55, 1906. rates and fares which are given to similar traffic of the respective kinds on the main line and branch lines of the Natal Government Railways, so far as it may be carried over such lines, and that the Administration or any person by whom the railway shall be carried on shall receive and carry all such traffic over the railway to and from the Natal Government Railways at rates not exceeding the respective rates for similar classes of traffic carried on the line from Glencoe Junction to Vryheid inland or seawards as the case may be, or otherwise at such respective rates as may from time to time be set forth in a tariff approved by the Governor in Council.

IN WITNESS WHEREOF the parties have hereunto set their hands at the places and upon the dates respectively set forth.

SIGNED by the Minister of Railways and Harbours at Pietermaritzburg, in the Colony of Natal, on the 10th day of November, 1906.

JNO. G. MAYDON,
Minister of Railways and Harbours.

AS WITNESSES to the signature of the
Minister of Railways and Harbours :

G. T. PLOWMAN.
JAMES ANDERSON.

Signed by Alfred John Bonas, acting on behalf of Gustave Henry Bonas, at Capetown, in the Colony of Cape of Good Hope, on the 14th day of November, 1906.

ALFRED J. BONAS.
q.q. Gustave Henry Bonas

AS WITNESSES to the signature of
Alfred John Bonas :

STUART G. WALLACE.
STANLEY H. OWEN.

AGREEMENT.

WHEREAS by a contract made between the Minister of Railways and Harbours, as representing the Colonial Government of Natal, and Gustave Henry Bonas, of Kimberley, in the Colony of the Cape of Good Hope, bearing date the 10th and 14th days of November, 1906, the said Government undertook to construct on behalf of the said Gustave Henry Bonas, a line of railway from Vryheid past Hlobane to a point on or near to the farm "Parijs," in the district of Vryheid, and to maintain and work the same for a period of twenty-five years, all upon certain terms

in regard to payments and otherwise, and the said Gustave Henry Bonas undertook to establish a colliery or collieries and iron and steel works adjacent to the railway, and to supply the Government with coal from the said collieries; in consideration of which several matters certain mutual obligations were entered into by the parties :

AND WHEREAS it has been agreed between the parties to the said contract that the same shall be varied and amended in certain particulars :

NOW, THEREFORE, it is hereby agreed between the parties as follows :—

1. The expression “the principal contract” hereinafter used means the aforesaid contract entered into on the 10th and 14th days of November, 1906. The other terms used in this agreement shall bear the same meaning as in the principal contract. Meaning of terms.

2. (1) The following words shall be added to Sub-Clause (1) of Clause 5 of the principal contract : Route.

The decision of the Engineer-in-Chief in regard to the route of the railway shall be final.

(2) The following words shall be added to Sub-Clause (4) of Clause 5 of the principal contract :— Grades and curves.

The decision of the Engineer-in-Chief in regard to the grades and curves shall be final.

3. The following words shall be added to Clause 7 of the principal contract :— Type and character of buildings, &c.

The type and character, both as to materials and designs, of the buildings, works of art, and all other appliances and things above mentioned shall be as nearly as possible similar to those already in use on the Upper Tugela Railway.

The decision of the Engineer-in-Chief in regard thereto shall in all cases be final.

4. (1) The following words shall be added after the words “commencement of this contract,” in the second paragraph of Clause 8 of the principal contract :— Time for completion.

Any delay on the part of the Government shall not of itself be deemed to entitle the owner to claim a cancellation of the contract, but any damage which he may sustain by reason of such delay shall be determined by arbitration in manner hereinafter appointed.

(2) The following words shall be added after the words “to

Act 55, 1906. construct the same," in the fourth paragraph of Clause 8 of the principal contract :—

The Engineer-in-Chief shall determine what is to be considered a reasonable time for the construction of the sidings above referred to. The provisions of the earlier part of this clause in regard to delays shall apply to delays in the construction of the said sidings.

Lands to be taken.

5. The words "in the opinion of the Engineer-in-Chief" shall be inserted after the words "such additional lands as may" occurring in the first paragraph of Clause 10 of the principal contract.

Certification of railway.

6. The following words shall be added to Clause 15 of the principal contract :—

If any question shall arise in regard to the granting or withholding of the certificate above referred to, and the Engineer-in-Chief and the Owner's Engineer are unable to agree whether the same ought to be granted, or whether anything further is required in order to entitle the Government to obtain such certificate, the matter shall be decided by arbitration. If so required by the award upon the arbitration the Owner's Engineer shall grant his certificate.

Taking over of railway.

7. The words "shall at once cease and determine," occurring in Clause 16 of the principal contract, shall be altered so as to read as follows :—

"May in the discretion of the Government at once cease and determine."

Engines and rolling stock.

8. The following shall be added to Clause 18 of the principal contract :—

The Owner shall in every half-year give the General Manager six months' written notice in advance of his estimated requirements in regard to the supply of engines and trucks for the ensuing half-year, and he shall not be entitled to require a greater supply than is stated in his notice.

The owner's right to demand a supply of engines and trucks shall not be exercised in such a manner as in the opinion of the General Manager shall tend to create a monopoly in the coal trade.

Supply of coal.

9. The following words shall be added to Clause 31 of the principal contract :—

The Government shall in every half year give the Owner not less than six months' written notice in advance of the

Act 55, 1906.

maximum requirements of the Government in regard to coal for the ensuing half year, and the Government shall not be entitled to require the Owner to supply more than is stated in such notice.

10. The following words shall be added to Clause 32 of the principal contract:— Increasing price of coal.

If the Owner commits any breach of the above promise the Government will no longer be bound by the provisions of Clause 18 of this contract.

11. The date of the thirtieth day of June, 1911, shall be substituted for the 31st day of December, 1910, mentioned at the end of Clause 33 of the principal contract. Erection of iron and steel works.

12. The words "in Natal and London" occurring in Clause 44 of the principal contract shall be altered to read as follows:— Notices and requisitions.

In Natal ^{and}
 or London.

13. The principal contract shall be read and construed as if the alterations made therein by this agreement were contained therein at the time when the principal contract was signed by the parties thereto. Construction

In witness whereof the parties have hereunto set their hands at the places and upon the dates respectively set forth.

Signed by the Minister of Railways and Harbours, at Pietermaritzburg, the tenth day of December, 1906.

CHARLES HITCHINS,

Minister of Railways and Harbours.

As Witnesses to the signature of the Minister of Railways and Harbours:

JAMES ANDERSON.

J. W. F. BIRD.

Signed by Alfred John Bonas, acting on behalf of Gustave Henry Bonas, at Pietermaritzburg, Natal, on the tenth day of December, 1906.

ALFRED J. BONAS,

q.q. GUSTAVE HENRY BONAS.

As Witnesses to the signature of Alfred John Bonas:

JAMES ANDERSON.

J. W. F. BIRD.

REGISTRAR OF DEEDS.

[See "REGISTRATION (DEEDS)."]

REGISTRATION (BIRTHS, &c.)

[As to registration of births and deaths of natives, see tit.
“NATIVE LAW.”]

Act No. 5, 1902.

“To make special provision for the registration in certain cases of deaths of persons belonging or attached to the Imperial Military Forces in Natal, or to a Police, Volunteer, or other Military Force of Natal.”

[2nd May, 1902.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. If there shall be produced to the Registrar-General:—

- (a) A list furnished by the Deputy Assistant Adjutant-General of His Majesty's Forces in Natal, or other officer acting in a like capacity, containing the names of any officers or soldiers of the Military forces, or attached thereto, or of any inmates of a Military hospital or of any town or place occupied by the Military Forces or of any camp of refuge or the like, who shall have died in Natal, and showing also the place and date of each death, and the rank or capacity in which each such person was serving; or
- (b) A list furnished by such officer as aforesaid, or by the Adjutant of Natal Police or the Staff Officer of Volunteers, or an officer acting in a like capacity, containing the names of any officers or persons belonging or attached to a Police or Volunteer Force of Natal, or any other Military Force of this Colony, who shall have died whilst on active service, such list showing also the place and date of each death and the rank or capacity in which each such person was serving,

the Registrar-General shall be authorised to register the deaths of the persons named in such list.

Special registration of deaths upon returns furnished by the D.A.A.G.

and upon returns furnished by the Police or Volunteer Department.

2. The mode of such registration may be prescribed by rules from time to time made by the Governor in Council.

Act 5, 1902.

Rules as to mode of registration.

3. This Act shall apply to all such deaths as aforesaid as shall have occurred in and after the month of September, 1899.

Application of Act.

4. Sections 21 and 25 of Law No. 16, 1867 (*a*), or the similar provisions of any like Act, shall apply to registration entries made in terms of this Act.

Joint construction.

(*a*) See under this title in Vol. 1.

REGISTRATION (DEEDS) (a).

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Act No. 10, 1901.

"To extend the Registry of Deeds of Natal to the Province of Zululand."

[30th July, 1901.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. This Act shall take effect upon the first day of July, 1901, and may be cited as "The Registry of Deeds (Zululand) Act, 1901."

2. The Zululand Proclamation No. 1 of 1892, and so much of Schedule C of the Zululand Proclamation, No. 12 of 1896, as relates to transfers and mortgage bonds passed in the Registry of Deeds, and to office fees for the transaction of business in the said office, and to the annual licenses of conveyancers, are hereby repealed, without prejudice to the validity or effect of anything done thereunder.

3. The Laws of the Colony of Natal relative to the Registry of Deeds shall apply to and be of force in the Province of Zululand.

4. The office of Registrar of Deeds for the Province of Zululand is hereby abolished.

5. The powers, authority, and jurisdiction of the Registrar of Deeds for the Colony of Natal shall extend to the Province of Zululand, and he shall be charged with the registration of such deeds relating to the said Province as are proper for registration in the office of the Registrar of Deeds, and shall also have the custody of the records heretofore in the keeping of the Registrar of Deeds for the said Province.

(a) As to stamps on deeds, and the defacement thereof, see Act No. 27, 1901, tit. "REVENUE."

6. The expression, "the Province," as used in the succeeding part (a) of this Act, means the Province of Zululand. **Act 10, 1901.**

Meaning of expression "the Province."

7. All deeds of transfer, mortgage bonds, and other deeds relating to the Province, which by Law are required to be executed before the Registrar of Deeds, shall be subject to the provisions of the License and Stamp Act of 1898, and of any Acts amending the same; and all fees for registrations and other business transacted in the office of the Registrar of Deeds in Natal shall apply without distinction to business relating to the Province. **Stamps and fees.**

8. All conveyancers practising in the Province shall be required to take out annual licenses under the provisions of the License and Stamp Act of 1898, and of any Acts amending the same: Provided that this section shall not apply to any such conveyancer during the currency of a license taken out in the Province before the commencement of this Act. **Conveyancers' licenses.**

9. The Governor in Council may from time to time make regulations for the better carrying into effect of the objects of this Act. **Regulations.**

Act No. 8, 1903.

"To authorise the amalgamation of the Title Deeds and Diagrams of contiguous properties owned by the same person."

[8th July, 1903.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. Any person being the registered owner of two or more pieces of land contiguous to each other, such pieces of land being represented by separate diagrams, may apply in writing to the Registrar of Deeds for a "Certificate of Registered Title" stating that such person is the registered owner of the land to be therein described according to a diagram, which diagram shall include, and indicate the aggregate extent of, the several pieces of land so held by such person, and be compiled in the Surveyor-General's Office. **Applications for Certificates of Registered Title.**

No person shall be entitled to apply for a certificate of registered title unless the lands, the subject of the application, **Lands to form portion of same original Grant.**

(a) As this Act is not divided into "parts" the reference is evidently to the succeeding sections.

Act 8, 1903.

form portions of the same original grant or transfer from the Crown, nor unless the lands are free from any registered mortgage.

Applicant to submit Deeds. &c.

2. The applicant shall, with his application, submit the several deeds of grant or of transfer under which he holds, with the diagrams belonging thereto.

Issue of Certificates in form of Schedule.

3. The Registrar of Deeds may, upon receiving such application, grant and issue to the applicant a certificate of registered title, which shall be as nearly as is material in the form contained in the Schedule.

Endorsement and retention of existing Deeds.

4. At the time of granting any such certificate as aforesaid, the Registrar of Deeds shall cause all necessary endorsements or entries to be made upon the existing deeds of transfer, and in the registers in his office, showing the consolidation of the applicant's title, and shall retain the deeds previously in the possession of the applicant.

Existing Servitudes.

5. No servitude, terms or conditions affecting any of the lands included in a certificate of registered title, whether the same be shown upon the prior deeds of transfer or diagrams or by separate deed, shall in any way be affected by the amalgamation, but the particulars thereof shall be endorsed upon the said certificate of registered title, and any servitude shown upon the diagram of any of such lands shall be also shown upon the diagram attached to such certificate.

Registrar of Deeds may refuse to issue Certificate.

6. The Registrar of Deeds may in any case refuse to issue a certificate of registered title if it appears to him that any right or interest might be prejudiced by the issue of such certificate, or he may require that the consent of any person having an interest by way of servitude or otherwise be given before issue of such certificate.

Application to Supreme Court.

In case of such refusal the applicant may apply to the Supreme Court for an order authorising the Registrar of Deeds to issue a certificate of registered title, and the Supreme Court may upon such application make such order as may appear proper.

Registration of Certificates.

7. The certificate of registered title when issued by the Registrar of Deeds under the provisions of this Act, and the diagram attached thereto, shall be registered in the Offices of the Registrar of Deeds and Surveyor-General respectively, and shall stand in the place of the grants, deeds of transfer and diagrams previously held by the applicant in respect of the land therein mentioned or described, but no such certificate or diagram shall be deemed to confer upon the applicant any greater or other right than such as he had or possessed under such grants, deeds, or diagrams.

8. Every certificate of registered title issued under this Act **Act 8, 1903.** shall bear a stamp of Thirty Shillings, to be affixed to the **Stamp Duty.** duplicate original filed in the office of the Registrar of Deeds.

SCHEDULE.

(Stamps, 30s.)

Certificate of Registered Title.

Granted pursuant to the provisions of Act No. 8, 1903.

KNOW ALL MEN WHOM IT MAY CONCERN:—

THAT WHEREAS _____ is the registered owner of the following pieces of land:—

(1) *(Describe the land)*
transferred to him on _____ by deed of transfer
No. _____

(2) *(Describe the land)*
transferred to him on _____ by deed of transfer
No. _____

AND WHEREAS the said _____ has made application under the provisions of Act No. 8, 1903, for the issue to him of a Certificate of Registered Title with a single diagram in place of the several deeds of transfer and diagrams relating to his said pieces of land, and it appears to me to be proper to grant the same:

NOW THEREFORE, in pursuance of the provisions of the above recited Act, I, the Registrar of Deeds, do hereby certify that the said _____ is registered as the owner of *(describe the land)* extending *(describe the boundaries indicated by the diagram)*, as will more fully appear by the annexed diagram, subject to such conditions as are mentioned or referred to in the said *(describe the grants or deeds of transfer)*.

AND by virtue of these presents the said _____, his heirs, executors, administrators, and assigns, now are, and henceforth shall be, entitled thereto, conformably to local custom, Government however reserving its right.

IN WITNESS WHEREOF, I, the said Registrar, have subscribed to these presents.

THUS done and executed at the Office of the Registrar of Deeds at Pietermaritzburg, in the Colony of Natal, on the _____ day of the month of _____, in the year of Our Lord one thousand nine hundred and _____

.....
Registrar of Deeds.

NOTE.—When the Certificate is issued under an order of Court, the necessary recital of the order is to be made.

Act No. 15, 1904.

“To authorise the issue in certain cases of certificates of registered title of lands situated in the Northern Districts.”

[8th July, 1904.]

WHEREAS from divers causes many original deeds of grant or of transfer of lands situated in the Northern Districts have been lost or destroyed, and no duplicates thereof exist in the Registry Offices of the Transvaal Colony, and it is expedient to provide for the issue of certificates of registered title to replace the originals:

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Loss of Deed.
Application to
the Supreme
Court for
certificate of
title.

1. In any case where an original deed of grant or subsequent transfer of land in the Northern Districts as defined by the Northern Districts Annexation Act, 1902, has been lost, and no duly authenticated copy thereof can be obtained, the registered owner may apply to the Supreme Court, upon notice to the Registrar of Deeds, and after the public notice hereinafter provided for, for an order authorising the issue to him of a certificate of registered title.

Publication of
notice.

2. Notice of an intended application, setting forth the particulars thereof, shall be published once in the *Natal Government Gazette* and twice in some newspaper published in the Colony at least a month prior to making the application.

Hearing.

3. At the hearing of the application, the applicant shall produce to the Court a duly registered diagram of the land in question, together with a certificate by the Registrar of Deeds that the applicant appears by the records of his office to be the registered owner of the land in question.

Court may
authorise issue
of certificate
of title.

4. On proof to the satisfaction of the Court that the applicant is the true owner of the land in question, and that the deed of grant or title has been destroyed or lost, and that no duly authenticated copy thereof can be obtained, the Court may authorise the Registrar of Deeds to issue to the applicant a certificate of registered title which shall be as nearly as is material in the form contained in the Schedule of this Act, and shall contain such conditions and reservations as the Court, upon enquiry as to the conditions affecting similarly granted lands, shall appoint.

Filing of
duplicate.

A duplicate of every such certificate shall be filed in the office of the Registrar of Deeds.

The original of every such certificate shall bear stamps of the value of Five Shillings, and the duplicate shall bear stamps of the value of Two Shillings and Sixpence, and a registration fee of One Guinea shall be payable to the Registrar of Deeds to cover all charges of his office for and in connection with the application for and issue and registration of the certificate.

Act 15, 1904.

Stamp fees.

5. A certificate of registered title granted under this Act shall stand and avail in lieu of the original deed of grant or transfer, as the case may be, and shall suffice for all purposes for which such deed of grant or title would avail.

Certificate to take place of original.

6. If the original, or a duly authenticated copy, of the deed shall at any time be found, it shall be the duty of the owner to at once produce the same to the Registrar of Deeds together with the certificate of registered title.

Finding of original.

The Registrar shall thereupon take and file a copy of the deed, and shall cancel the certificate of registered title, at the same time making any necessary endorsements upon the original.

Cancellation of certificate.

SCHEDULE.

Certificate of Registered Title.

Issued pursuant to an order of the Supreme Court granted under Act No. , 1904.

Know all whom it may concern :—

That A.B., having applied to the Supreme Court of the Colony of Natal for the issue to him of a certificate of registered title under Act No. , 1904, in lieu of a certain Deed of Grant (or Deed of Transfer, as the case may be) [*here describe the Deed of Grant or Transfer under which the applicant holds*] which has been lost or destroyed, and the said Supreme Court having authorised the issue to the applicant of such certificate of registered title :

NOW THEREFORE, in pursuance of the provisions of the aforesaid Act, I, the Registrar of Deeds, do hereby certify that the said A.B. is the registered owner of [*describe the property*] the extent and boundaries of which will more fully appear from the annexed diagram :

And that by virtue of these presents the said A.B., his heirs, executors, administrators and assigns now is and henceforth shall be entitled thereto conformably to local custom, Government, however, reserving its rights.

The land to which this certificate applies is deemed to have

REGISTRATION (DEEDS).

Act 15, 1904. been granted subject to the following conditions and reservations, that is to say :—

.....
.....
.....

etc., etc., etc.

In witness whereof I, the said Registrar, have subscribed to these presents and caused my seal of office to be affixed thereto.

Thus done and executed at the office of the Registrar of Deeds, Natal, on this the.....day of.....in the Year of our Lord One Thousand Nine Hundred and

Registrar of Deeds.

REGISTRATION (FIRMS).

[See “ FIRMS (REGISTRATION).”]

REVENUE. (a)

[See "DEATH DUTIES"; "DEEDS (REGISTRATION)";
"TAXES."]

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(a) For rule of construction to be applied to Taxing Acts, see *Hardcastle on Statutory Law*, 4th Ed. (Craies) p. 109 *et seq.*, where several cases are cited. The rule appears to be deducible from the two following cases:—

In *Partington v. Att.-Gen.* [1869], L.R. 4 H.L. 100, 122, Lord Cairns said: "I am not at all sure that in a case of this kind—a fiscal case—form is not amply sufficient; because, as I understand the principle of all fiscal legislation, it is this: if the person sought to be taxed comes within the letter of the law, he must be taxed, however great the hardship may appear to the judicial mind to be. On the other hand, if the Crown, seeking to recover the tax, cannot bring the subject within the letter of the law, the subject is free,

however apparently within the spirit of the law the case might otherwise appear to be."

On the other hand, in *Att.-Gen. v. Carlton Bank* [1899] 2 Q.B., 158, 164, Lord Chief Justice Russell said: "I see no reason why any special canons of construction should be applied to any Act of Parliament, and I know of no authority for saying that a taxing Act is to be construed differently from any other Act. The duty of the Court is, in my opinion, in all cases the same, whether the Act to be construed, relates to taxation or to any other subject, viz., to give effect to the intention of the Legislature, as that intention is to be gathered from the language employed, having regard to the context in connection with which it is employed."

Act No. 27, 1901.

“ To amend the License and Stamp Act, 1898.”

[19th August, 1901.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

Requisites in regard to the defacement of stamps.

1. Sections 25 and 26 of the License and Stamp Act, 1898, are hereby repealed, and the following section is enacted in lieu thereof :—

The person required to deface any stamp shall, within twenty-one days of the execution of the deed to be stamped, write his name or his initials, and the date of defacement, on the stamp : Provided always that :

- (a) The Auditor, or other officer appointed as provided in the License and Stamp Act, may deface or authorise the defacement of such stamps after the lapse of Twenty-one days, if additional stamps by way of penalty be affixed to such deeds of a value determined by him, being not less than twice the value of the original stamp duty, not, however, exceeding Five Pounds in any case.
- (b) If the Auditor or such other officer as aforesaid is satisfied that the document has not been stamped, or has been insufficiently stamped, or defaced, or is otherwise not duly stamped, owing to a *bona fide* mistake or oversight, or, in the case of insufficient stamps having been affixed, to a genuine belief that the stamps affixed were sufficient according to the requirement of the law, he may reduce the penalty below the amount above stated, or may dispense with such penalty.

Defacement of stamp by Registrar of Deeds.

2. Sub-section (a) of Section 23 of the License and Stamp Act, 1898, is hereby repealed, and the following enacted in lieu thereof :—

- (a) The stamps on all deeds executed in the Registry of Deeds, shall be defaced by the Registrar of Deeds.
- (b) The stamps on any deeds registered in the Registry of Deeds (other than notarial deeds), and on any documents tendered in connection therewith, may, if such stamps have not been defaced, or have been insufficiently defaced, be defaced by the Registrar of Deeds.

3. The words *Government or Bank Officers*, occurring in Section 24 of the License and Stamp Act, 1898, shall be expunged, and the words "Government, Bank, or Permanent Building Society Officers" shall be inserted in lieu thereof.

Act 27, 1901.

Officers by whom stamps may be defaced with an office stamp.

4. That the following be added to Section 35 of the License and Stamp Act, 1898, namely:—

Exception in regard to the time for stamping certain deeds.

The time during which the deed is submitted to the Registrar of Deeds, Judge, or Supreme Court shall not be calculated or reckoned as part of the time allowed for defacement under Section 25.

Provisos (a) and (b) of the said Section 35 are hereby repealed.

Repeal of Provisos (a) and (b) of Sec. 35 of principal Act.

5. Clause (b) of the exemptions under item 22 of Schedule III. of the License and Stamp Act, 1898, is hereby repealed, and the following clause is substituted therefor:—

Clause substituted for (b) of exemptions from stamp duty as marketable securities.

When any marketable security of a Corporation or Joint Stock Company is divided into parts, and the original security is cancelled and fresh marketable securities are issued representing the parts thereof, no stamp shall require to be affixed to such fresh marketable securities.

6. The following sub-section shall be inserted after sub-section (d) of item 30 of Schedule III. of the License and Stamp Act, 1898:—

Stamp duty on cession of policy.

(e) Of a policy of fire or life insurance or assurance 1s. 0d.

Act No. 26, 1905.

"To amend the License and Stamp Act, 1898."

[12th August, 1905.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. Section 51 of the License and Stamp Act, 1898, is hereby repealed and the following is enacted in lieu thereof:—

Repeal.

Every magistrate shall cause a notice drawing attention to the provisions of the tenth section of this Act to be conspicuously affixed at the court house door from the 20th day of December in every year to the end of the next January, and the Colonial Secretary shall cause similar notices to be published in each issue of the *Natal Government Gazette*, and at least twice in each of two newspapers during the same period.

Magistrate's Notice.

Act 26, 1905.

Native Eating
House License.

2. The following item shall be added to the list of annual licenses in Schedule II. of the said Act :—

Keeping a Native eating-house outside the limits of a municipal borough or of a township constituted under Law No. 11, 1881 £5 0 0

A Native eating-house license shall be deemed to be a license within the meaning and subject to the provisions of Act No. 18, 1897, but it shall not be necessary for the holder to comply with the provisions of Section 7 of the said Act (a).

No licenses shall be granted for a Native eating-house, nor shall any such eating-house be kept, within three miles from the nearest boundary of a municipal borough or of a township established under Law No. 11, 1881, but this clause shall not be deemed to prevent any such eating-house from being kept within a borough or township under the regulations thereof or to apply to any eating-house now being kept outside a borough or township until the first day of January, 1906.

Hawker's
License.

3. From and after the first day of January, 1906, a license granted under the provisions of the second schedule of the License and Stamp Act, 1898, to a hawker or itinerant trader shall be confined to the limits of the magisterial division in which it was granted and shall not give any rights outside such division.

Act No. 11, 1901.

“ To extend the provisions of Section 11 of the ‘ Customs Union and Customs Duties Act, 1898.’ ”

[30th July, 1901.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. The words “ four years ” are hereby substituted for the words “ three years ” occurring in Section 11 and in Class V of the Second Schedule of the “ Customs Union and Customs Duties Act, 1898 ” (b).

(a) See the Act referred to, under tit. “ DEALERS (WHOLESALE AND RETAIL)” Vol. 1

(b) This Act is now obsolete, Act No. 50, 1898 having been entirely repealed by Act 14, 1903, which in turn was repealed by Act No. 9, 1906, post.

Act No. 19, 1902.

“To extend the provisions of Section 11 of the Customs Union and Customs Duties Act, 1898.”

[26th May, 1902.]

WHEREAS by Section 11 and by Schedule II, Class V, of the Customs Union and Customs Duties Act, 1898, it is enacted that the Customs duties upon the articles therein enumerated shall be suspended during a period of three years from the date of the commencement of the said Act :

AND WHEREAS by Act No. 11, 1901, the said period of three years was extended to four years, which period will expire on the 31st day of December, 1902, and it is expedient to further extend the period to the 30th day of June, 1903 :

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. The period of three years specified in Section 11, and in Class V of the Second Schedule of the Customs Union and Customs Duties Act, 1898, shall be extended for a further period of six months, that is to say up to and including the 30th day of June, 1903 (*a*).

Suspension of duty on wheaten flour and meal.

Act No. 19, 1905.

“To amend the Customs Consolidation and Shipping Act, 1899.”

[16th July, 1905.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. Section 38 of the Customs Consolidation and Shipping Act, 1899, shall be amended by expunging therefrom the following words :—

Amendment of sec. 38 of Act 13, 1899.

Articles of foreign manufacture, bearing the name, marks, or brands of manufacturers resident in the United Kingdom of Great Britain and Ireland, or bearing marks contravening the provisions of any Act relating to merchandise marks ;

And in lieu thereof the following shall be substituted :—

Articles not manufactured in the United Kingdom of Great

(*a*) See note to Act No. 11, 1901, ante.

Act 19, 1905. Britain and Ireland, bearing the name, marks, or brands of manufacturers resident in the said United Kingdom.

Articles from any place without the Colony of Natal bearing marks contravening the provisions of any Law or Act relating to merchandise marks.

Date of taking effect.

2. This Act shall take effect from the 1st day of July, 1905.

Customs Union and Customs Duties Act, 1906.

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Act No. 9, 1906.

“To provide for the entry by the Colony of Natal into a South African Customs Union, and to amend the law relating to Customs Tariffs.”

[29th June, 1906.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Short title.

1. This Act may be cited as the Customs Union and Customs Duties Act, 1906.

Repeal.

2. (a) The Customs Union and Customs Duties Act, 1903, is hereby repealed without prejudice to anything done or any appointment made, or any right acquired or liability incurred thereunder.

(b) Any regulations made under the said repealed Act shall, save so far as they may be inconsistent with

this Act, remain in force until other regulations shall have been made in lieu thereof under this Act. **Act 9, 1906.**

- (c) The provisions of Sections Nos. 113 to 116 inclusively of the Customs Consolidation and Shipping Act, 1899, shall not apply to goods or things imported for removal to and consumption in any Colony or Territory belonging to the Union hereinafter mentioned.
- (d) So long as this Act remains in force the words "the true current value in the open market for similar goods at the place of purchase bought in the ordinary manner from the manufacturer or supplier in normal quantities" shall be substituted in Section 62 of the Customs Consolidation and Shipping Act, 1899, for the words "the true current value in the open market for such goods at the place of purchase by the importer or his agent."
- (e) Save as aforesaid this Act and the Customs Consolidation and Shipping Act, 1899, shall be construed together as one Act.

3. The Governor in Council shall by proclamation notify the names of the Colonies, Territories, or States constituting a Customs Union (hereinafter referred to as the Union), and it shall be lawful for the Governor in Council from time to time by proclamation to declare the admission to the Union of any other Colony, or Territory or State of South or Central Africa having a civilised Government (a).

Proclamation of States constituting the Union.

4. In lieu of the duties imposed by the Customs Union and Customs Duties Act, 1903, there shall, subject to the provisions hereinafter contained, be levied and paid upon the goods, merchandise, and things imported or brought into this Colony the duties as set forth in Classes I., II., III., IV., and VI., of the Schedule of this Act, and all such duties shall be paid to the general revenue of the Colony.

Duties to be levied.

5. A rebate of the duties imposed by this Act shall be granted on any goods and articles the growth, produce, or manufacture of the United Kingdom of Great Britain and Ireland

Rebates in respect of goods from United Kingdom.

(a) By Proclamation No. 90, 1906, the following were proclaimed as constituting a Customs Union, namely:—
The Colony of the Cape of Good Hope;
The Colony of Natal;
The Orange River Colony;

The Colony of the Transvaal;
The Territory of Southern Rhodesia;
Basutoland;
The Bechuanaland Protectorate;
Swaziland;
Barotzeland (North Western Rhodesia)

Act 9, 1906. imported therefrom into Natal for consumption therein or in any Colony, Territory or State of the Union, to the extent following:—

- (a) In the case of goods and articles liable to Customs duty under Class I. of the Schedule of this Act, a rebate at the rates respectively shown in the outer column of said Class I. and,
- (b) In the case of goods and articles charged under Classes II., III., IV., and VI. of the said Schedule a rebate of three per centum *ad valorem* on such goods and articles:

Proviso.

Provided that the manufactured goods and articles in respect of which such rebate as aforesaid is granted shall be *bona-fide* the manufactures (a) of the United Kingdom, and that in the event of any question arising as to whether any goods or articles are entitled to such a rebate as aforesaid the decision of the Minister having charge of the Department of Customs shall be final.

Rebates in respect of other goods.

6. Whenever the Governor shall by proclamation declare that any British Colony, Protectorate, or Possession has made provision for granting equivalent reciprocal privileges to the Colonies and Territories belonging to the Union, a rebate similar to that for which provision is made by Section 5 of this Act shall be granted in like manner and under the like provisions to goods and articles the growth, produce, or manufacture of such British Colony, Protectorate or Possession, from a date to be appointed in such proclamation:

Provided that such proclamation shall not be made until the date to be so appointed shall have been mutually agreed upon by the Colonies, Territories, and States belonging to the Union.

Goods to be admitted duty free.

7. The goods, merchandise and things set forth in Class V. of the Schedule of this Act shall, subject to the special provisions hereinafter contained, be admitted into this Colony free of duty.

Spirits.

8. A duty of Customs shall be levied and imposed upon spirits distilled from the produce of and in any Colony, Territory, or State belonging to the Union when imported into this Colony, which duty shall be equivalent to the duty imposed by way of Excise according to the laws of this Colony at the time of such

(a) "Manufacture (*manufactus*) is the operation of making goods or wares of any kind; the production of articles for use from raw or prepared materials by giving to these materials new forms,

qualities, properties, or combinations, whether by hand labour or machinery." *Per* Bale, C. J., in *Duyall v. Riches*, 23 N.L.R., 97. See also *Buxton v. Barfield*, 23 N.L.R., 198.

importation upon spirits here distilled: Provided that, subject to **Act 9, 1906.** any regulations to be made in that behalf, a rebate may be allowed of the whole or any part of the Customs duty upon any rectified spirits of wine distilled in any Colony, Territory, or State belonging to the Union and imported into Natal solely for use by chemists and druggists in the preparation of medicines, perfumery, and non-potable articles ordinarily sold in the course of their trade. Such regulations may provide for the placing of such rectified spirits in bond, and may empower the Collector of Customs, if he should in any way see fit to do so, to require that the medicines or their preparation as aforesaid shall be made in bond.

9. A duty of Customs shall be levied and imposed upon methylated spirits produced from any article within a Colony, Territory or State belonging to the Union, when imported into this Colony, which duty shall be equal to the duty, if any, imposed by way of Excise at the time of such importation upon methylated spirits (a) made in Natal, and the terms on which such spirit shall be imported into Natal shall be as favourable as those granted in regard to methylated spirits made in Natal from any article. **Methylated spirits.**

10. A duty of Customs shall be levied and imposed on beer **Beer.** as defined in Act No. 37, 1901, brewed in any Colony, Territory or State belonging to the Union, when imported into this Colony, which duty shall be equivalent to the duty imposed by way of Excise at the time of such importation upon beer brewed within this Colony (b).

11. It shall be lawful for the Governor in Council by proclamation to at any time suspend the collection of the whole or any part of the Customs duty imposed by this Act upon fresh, chilled and frozen meat, and upon animals imported for slaughter, as regards any of such things imported for consumption in Natal. Such suspension may be removed by a like proclamation. **Suspension of duties on meat.**

12. The Governor in Council may by proclamation allow a rebate of the whole or any part of the Customs duty upon soap and other substances imported for and used exclusively in connection with the industry of wool washing, or upon methylated spirits, or alcohol imported solely for manufacturing or scientific purposes or for fuel within this Colony. **Soap, alcohol &c.**

13. (1) Whenever any goods upon which duty has been paid in this Colony shall be removed to any Colony, Territory or State within the Union, there shall be **Appropriation of revenue.**

(a) See sec. 12, post.

(b) See Act No. 35, 1903, post, sub-title *Excise*.

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payable to the Government of such Colony, Territory or State ninety-five per cent. of the Customs Union duties collected under this Act on the said goods.

- (2) When any flour wheaten meal or pollard manufactured within the Union from other than South African wheat, or any manufacture of tobacco or preparation of tobacco made within the Union containing an appreciable quantity of imported materials is removed from this Colony to any Colony, Territory or State belonging to the Union for consumption therein, there shall be payable to the Government of such Colony, Territory or State ninety-five per cent. of the Customs duty originally collected on such materials.

Rebate on goods removed to non-Union State.

14. The Governor in Council may from time to time by proclamation grant, a rebate on the whole or any part of the Customs duty payable upon any goods imported or warehoused on importation into this Colony and removed to any Colony, Territory or State outside the Union.

Removal under bond.

15. Under the authority of the proper officer of Customs, and subject to such regulations as may be made in that behalf, goods lawfully imported may, without the payment of duty before removal, be removed under bond from this Colony into any other Colony or Territory belonging to the Union, and where goods are to be so removed immediately from the importing ship the provisions of Sections 85, 86, and 87 of the Customs Consolidation and Shipping Act, 1899, shall not apply.

Prohibited articles may not be imported,

16. The following articles shall be added to the list of things the importation of which is prohibited by Section 38 of the Customs Consolidation and Shipping Act, 1899 (a) :—

Goods made in a prison or penitentiary ;

Opium, except such as may be imported for medicinal purposes under regulations made in regard thereto with the mutual approval of the Colonies or Territories belonging to the Union.

Except for transit.

17. If the Government of any Colony, Territory or State within the Union shall notify to the Government of Natal that any articles the importation of which is prohibited by Section 38 of the Customs Consolidation and Shipping Act, 1899, are allowed to enter such Colony, Territory or State, such articles shall be allowed to pass through Natal to such Colony, Territory or State, upon the payment of proper duty thereon, and subject to such

(a) See also Act No. 19, 1905, ante.

precautions as may be prescribed by the regulations under this Act. **Act 9, 1906.**

18. Spirits on which the duty has been paid, and which have subsequently been reduced by the addition of water to a less strength than fifteen per cent. under proof shall not be removed into any other Colony, State, or Territory of the Union until the person seeking to remove them shall have paid to the Collector of Customs a further duty calculated at the rate of nineteen shillings per proof gallon on the difference between the actual number of proof gallons and the number of proof gallons worked out as if the said spirits were only fifteen per cent. under proof.

Reduced spirits.

For the better enforcement of this section the Collector of Customs may demand to inspect any books or documents in the possession of the person removing the spirits, or of any person who has had any dealings therewith, and any person who shall fail on demand to produce such documents shall be liable to a fine not exceeding One Hundred Pounds (£100) Sterling.

19. Any person who shall contravene the provisions of this Act, or of any regulation thereunder, shall forfeit treble the duty-paid value of the goods concerned, or the sum of One Hundred Pounds (£100) Sterling at the election of the Collector of Customs, and the goods shall be forfeited.

Penalty for contravention of Act or regulations.

Any such contravention shall be cognizable in the Court of the Magistrate, without prejudice to the jurisdiction of the Supreme Court.

This section shall not prejudice or affect any liability to prosecution or other proceeding under the Customs Consolidation and Shipping Act of 1899, provided that a person be not twice punished for the same act.

20. The Governor in Council may from time to time make regulations providing for:— **Regulations.**

- (a) The collection of the Customs duties provided for by this Act in respect of goods imported either by sea or across an inland border, or brought into the Colony in bond;
- (b) The payment to any other Colony, Territory or State of the Customs duties collected in this Colony on the goods removed to such Colony, Territory or State, subject to such deduction as is provided for by this Act.
- (c) For the rebate of Customs duties authorised by this Act.
- (d) For the removal of the goods referred to in this Act, and for their conveyance to any place within the

Act 9, 1906.

Union, whether in bond or otherwise, or to any place outside the Union;

and generally for all matters whatsoever necessary for fully and effectually giving effect to the provisions of this Act (*a*)

Commence-
ment.

21. This Act shall come into operation on the first day of July, 1906, except so far as relates to the earlier enforcement of increased duties as provided by Sections 68, 69, and 71 of the Customs Consolidation and Shipping Act, 1899.

Notwithstanding the repeal of the Customs Union and Customs Duties Act, 1903, any Customs Duties imposed by that Act upon the undermentioned articles shall continue to be levied up to and including the dates set opposite to those articles, after which dates such articles will be subject to the provisions of this Act:—

Second-hand Clothing	...	30th June, 1906
Skimmed Milk	... ..	30th June, 1906
Wood	... ..	31st August, 1906
Corrugated Iron	... ..	31st August, 1906
Match Splints	... ..	31st December, 1906 :

Provided that in the case of second-hand clothing, skimmed milk and match splints, proof be established to the satisfaction of the proper officers of Customs that contracts for the purchase of the said articles were entered into prior to the 25th day of May, 1906.

(a) See Proclamation No. 91, 1906.

SCHEDULE.

Act 9, 1906.

CLASS I.—*Special Rates.*

	Duty.			Rebate upon Goods the growth, produce or manufacture of the United Kingdom and reciprocating British Colonies.
	£	s.	d.	
1. Acetic Acid, per Imperial Gallon	0	3	3	0 0 3
2. Ale, Beer, and Cider; all kinds of strength exceeding 3 per cent. of proof spirit, per Im- perial gallon	0	2	0	0 0 1½
(Note.— <i>Vide</i> Article 16.)				
3. Animals :—				
(a) Cattle for slaughter, each	1	10	0	
(b) Sheep for slaughter, each	0	5	0	
(c) Mules and Geldings, each	1	0	0	
(Note.— <i>Vide</i> Article 12.)				
4. Beads, known as “Kafir Beads,” per lb.	0	0	6¼	0 0 0¼
5. Blasting Compounds, including all kinds of explosives suitable and intended for blasting, and not suitable for use in fire- arms; and collodion cotton not intended for manufacturing purposes, per lb.	0	0	2½	0 0 0½
(Note.— <i>Vide</i> Article 16.)				
6. Butter, butterine, margarine, ghee, and other substitutes for butter, per lb.	0	0	2¼	0 0 0¼
7. Candles, per 100 lbs.	0	5	0	0 0 10
8. Cards, playing, per pack ... (and in addition 15 per cent. <i>ad valorem</i>)	0	0	6	3 per cent. <i>ad valorem</i>
9. Cement, per 400 lbs.	0	1	3	0 0 3
10. Chicory and substitutes for Coffee or Chicory, including chicory root, per lb.	0	0	2	
11. Clothing, second hand, for sale, per coat, vest, or trousers, each	0	2	0	
12. Coal and Patent Fuel, per ton of 2,000 lbs.	0	3	0	
13. Coke, per ton of 2,000 lbs. ...	0	1	0	

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	Date.			Rebate upon Goods the growth, produce or manufacture of the United Kingdom and reciprocating British Colonies.
	£	s.	d.	
14. Cocoa:—				
(a) Raw, per lb.	0	0	1	
(b) Ground or manufac- tured, unsweetened, per lb.	0	0	2	0 0 0½
(c) Cocoa and milk, choco- late and milk, coffee and milk, per lb. ...	0	0	2	0 0 0½
(d) Cocoa butter and cocoa paste, per lb.— ...	0	0	2	0 0 0½
15. Coffee:—				
(a) Raw, per lb.	0	0	0¾	
(b) Roasted, ground, or mixed, per lb. ...	0	0	2	
16. Confectionery, including sweet- ened cocoa or chocolate, honey, jams, jellies, pudding, and jelly powders, preserves, sweet- meats, candied or preserved ginger or chow-chow, and all other kinds compounded, made, or preserved with sugar, but not including purely medicinal preparations properly classed as apothecaryware, per lb. ...	0	0	2½	0 0 0¼
17. Corn and Grain:—				
(a) Wheat:—				
(1) In the grain, per 100 lbs.	0	1	2	0 0 2
(2) Ground or other- wise prepared, per 100 lbs.	0	2	6	0 0 3
(3) Bran, wheaten, per 100 lbs.	0	1	2	0 0 2
(b) Barley, buckwheat, Kafir corn, maize, millet, oats, rye, beans, and peas:—				
(1) In the grain, raw, or malted, per 100 lbs.	0	2	0	0 0 2
(2) Ground or other- wise prepared, in- cluding Samp, per 100 lbs.	0	2	9	0 0 3

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	Date.			Rebate upon Goods the growth, produce or manufacture of the United Kingdom, and reciprocal British Colonies.
	£	s.	d.	
(c) Rice, per 100 lbs. ... Not including patent, proprietary, or other specially prepared foods for invalids or infants, or corn and grain prepared as vegetables.	0	1	0	
18. Dates, per lb.	0	0	0½	
19. Fish, not being of South African taking, per lb.	0	0	1¼	0 0 0¼
20. Fodder :— Chaff, hay, lucerne, oathay, oil-cake, and other fodder not otherwise described, per 100 lbs.	0	2	0	0 0 2
21. Fruits :— (a) Preserved, of all kinds, bottled, tinned or other- wise preserved, includ- ing pulp and candied peel, per lb.	0	0	2¼	0 0 0¼
(b) Dried, of all kinds, in- cluding almonds and nuts, per lb.	0	0	2¼	0 0 0¼
22. Gunpowder and other explosives suitable for use in fire-arms, per lb. (and in addition 15 per cent. <i>ad valorem.</i>)	0	0	6	3 per cent. <i>ad valorem</i>
23. Guns and Gun-barrels, fire-arms :— (a) Single, per barrel ...	1	0	0	
(b) Double and other, per barrel	0	15	0	
(and in either case in addition 15 per cent. <i>ad valorem.</i>)				3 per cent. <i>ad valorem</i>
24. Lard, including compound lard, cottolene, nuttose, and other sim- ilar substances for use as food, per lb.	0	0	1¼	0 0 0¼
25. Matches :— (a) Wooden; in boxes or packages of not more than 100 matches, per				

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	Duty.			Rebate upon Goods the growth, produce or manufacture of the United Kingdom and reciprocating British Colonies.
	£	s.	d.	
gross of boxes or packages	0	2	0	
In boxes containing more than 100, but not more than 200 matches, per gross of boxes or packages ...	0	4	0	
And for every 100 additional matches, in boxes or packages, per gross of 100 matches	0	2	0	
(b) Fusees, vestas, or wax matches, or other patent lights used as such: in boxes or packages containing not more than 50, per gross of boxes or packages	0	2	0	
In boxes or packages of more than 50, but not more than 100, per gross of boxes or packages	0	4	0	
And for every 50 additional in boxes or packages, per gross of 50 matches ...	0	2	0	
Match splints to be classed, and pay duty as matches				
26. Meats, fats, soups, and other similar substances used as food, but not including extracts and essences or tallow, per lb. ...	0	0	1½	0 0 0½
27. Milk, condensed, desiccated, or preserved milk or cream:—				
(a) Full cream, per 100 lbs.	0	5	2	0 1 0
(b) Skimmed or separated, per lb.... ..	0	0	6	
28. Oils, mineral, illuminating, and burning, per Imperial gallon ...	0	0	1	
29. Onions and garlic, not preserved,				

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	Date.			Rebate upon Goods the growth, produce or manufacture of the United Kingdom, and reciprocating British Colonies.
	£	s.	d.	
per lb.	0	0	0½	
30. Pickles, sauces, chillies, chutneys, and other condiments, per lb...	0	0	2¼	0 0 0¼
31. Pills, imported in packages not for direct sale retail to the public, per lb.	1	0	0	
32. Pistols and Revolvers, each ... (and in addition 15 per cent. <i>ad valorem</i> .)	0	5	0	3 per cent. <i>ad valorem</i>
33. Potatoes, not preserved, per 100 lbs.	0	2	0	0 0 2
34. Soap, soap powders, and extracts, per 100 lbs. (or 25 per cent. <i>ad valorem</i> , whichever shall be the greater) (<i>Vide</i> Section 12 of this Act.)	0	4	9	0 0 7 or 3 per cent. <i>ad valorem</i> as the case may be.
35. Spices and Turmeric, per lb. ...	0	0	2¼	0 0 0¼
36. Spirits:—				
(a) Perfumed, per Imperial gallon... ..	1	2	6	
(b) Liqueurs, cordials, and mixed spirits, exceeding 3 per cent. of proof spirit, per Imperial gallon	1	0	0	
(c) Other sorts, exceeding 3 per cent. of proof spirit, per Imperial proof gallon... ..	0	19	0	
No allowance will be made for under-proof in excess of 15 per cent.				
Note. — Medicinal and toilet preparations and essences (liquid) and syrups and tinctures containing over 3 per cent. of proof spirit to be classed as spirits under item (b).				
(Note.— <i>Vide</i> Article 16).				
37. Sugar:—				
(a) Candy, loaf, castor, icing, and cube, per 100 lbs.	0	5	0	

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	Date.			Rebate upon Goods the growth, produce or manufacture of the United Kingdom, and reciprocating British Colonies.
	£	s.	d.	
(b) Other kinds, including golden and maple syrup, molasses, sac- charum, and treacle, per 100 lbs.	0	3	6	
(c) Saccharine and other sweetening substances in a concentrated form, per lb.... ..	1	0	0	
Note.—In the case of sugar upon which bounties are granted in the country of origin, an additional duty equal to the amount of such bounty is to be levied.				
38. Tea, per lb.	0	0	4	
39. Tobacco:—				
(a) Cigars and cigarillos, per lb.... ..	0	6	0	
(and in addition 15 per cent. <i>ad valorem.</i>)				
(b) Goorak, or gooracco, and hookah mixture, and all imitations or substitutes therefor or for tobacco, per lb. ...	0	6	0	
(c) Snuff, per lb.	0	4	0	
(d) Cigarettes, per lb. ...	0	4	6	
(and in addition 15 per cent. <i>ad valorem.</i>)				
(e) Manufactured, per lb.	0	4	0	
(f) Unmanufactured, per lb.	0	3	0	
40. Vinegar:—				
(a) Of standard strength, fit for immediate use as such (<i>i.e.</i> , requiring no more than 40 grains of bi-carbonate of potash to neutralise 1 oz. troy):				
(1) In bottles or other vessels of the capa- city of not more				

		Act 9, 1906.			
		Date.			Rebate upon Goods the growth, produce or manufacture of the United Kingdom, and reciprocating British Colonies.
		£	s.	d.	
	than one Imperial quart, per Imperial gallon	0	1	1	0 0 1
	(2) In larger vessels or in bulk, per Imperial gallon ...	0	0	7	0 0 1
	(b) Concentrated extract or essence of greater strength than above, per Imperial gallon ...	0	3	3	0 0 3
41. Wine:—	(a) Still wines, not ex- ceeding 20 per cent. of proof spirit, per Imperial gallon ...	0	4	0	
	(b) Still wines, exceeding 20 per cent., but not exceeding 50 per cent. of proof spirit, per Imperial gallon ...	0	8	0	
	(c) Sparkling wines, per Imperial gallon ... (and in addition 15 per cent. <i>ad valorem</i> on all the above classes of wine.)	0	12	6	
	Note.—Wines contain- ing less than three per cent. of proof spirit are not included in the above, and wines containing more than 50 per cent. of proof spirit are classed as spirits.				
	General Note.—24 reputed half- pints, 12 reputed pints, 6 reputed quarts, and 4 reputed Imperial quarts to be deemed to be not less than 1 gallon.				
	Tins, jars, or other re- ceptacles of reputed weight to be deemed to be not less than such weight.				

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Schedule

	Duty.			Rebate upon Goods the growth, produce or manufacture of the United Kingdom and reciprocating British Colonies.
	£	s.	d.	
<p>Reputed 12 oz., 14 oz., and 16 oz. packets of candles to be deemed to be of those weights respectively.</p> <p>Cement in packages of not less than 350 lbs., and not more than 400 lbs., to be deemed to be 400 lbs.</p> <p>Packages of flour or wheaten meal containing not less than 90 lbs., and not more than 100 lbs., to be deemed to be 100 lbs.</p> <p>Oils, mineral, illuminating, and burning, in ordinary reputed two 5 American gallon or ten 1 American gallon tins to be deemed to be not less than 8 1-3 Imperial gallons, and two 4 reputed Imperial gallon tins to be deemed to be not less than 8 Imperial gallons.</p> <p>“Proof” means the strength of proof as ascertained by Sykes’ hydrometer.</p>				

CLASS II—*Mixed Rates.*

	£	s.	d.
42. Boots and Shoes, per £100	15	0	0
With a minimum per pair of—			
Men’s	0	0	9
Women’s	0	0	6
Children’s	0	0	3
43. Printed matter :—			
(a) Advertising, including catalogues, price lists, almanacs, calendars, labels, posters, and show cards, per £100	25	0	0
Or 2d. per lb., whichever shall be the greater.			

	£	s.	d.	Act 9, 1906. Schedule.
(b) Account and cheque books, printed stationery and forms, company reports, scrip (a) share certificates and promissory notes, cards (Christmas, New Year, birthday, post, and pictorial), directories, guide books and hand-books relating to South Africa, and boxes, card board, and bags, paper, printed upon, per £100. ...	25	0	0	
44. Vehicles:—				
(a) Carriages, carts, coaches, and wagons, and finished parts thereof not elsewhere enumerated, per £100	25	0	0	
(b) Second-hand carriages, carts, coaches, and wagons, per vehicle	10	0	0	
And in addition 15 per cent. <i>ad valorem</i> , but in no case shall the duty be less than 25 per cent. <i>ad valorem</i> .				
(Note.—Not including motor cars or cycles.)				

CLASS III—25 Per Cent. *ad valorem*.

45. Beverages:—
- (a) Waters: aerated, mineral and table.
 - (b) Fruit juices, cordials and syrups, not elsewhere enumerated.
 - (c) All other kinds not exceeding 3 per cent. of proof spirit.
46. Biscuits, cakes, puddings and pastry.
47. Blankets and sheets, or rugs, cotton or woollen, or manufactures of cotton and wool commonly used as cotton or woollen blankets or rugs, and cotton quilts, the single article in pairs or in the piece; and coats, jackets or other apparel made of blanketing or baize, not elsewhere enumerated.
48. Bon-bons, surprise packets and crackers, and fancy confectionery.
49. Bricks, except bath.
50. Extracts and essences of all kinds, for food, flavouring or perfumery, not elsewhere enumerated, including concentrated soup.

(a) Presumably this refers to printed forms intended to be used as company scrip, and the same remark applies (*mutatis mutandis*) to the words "share certificates and promissory notes."

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Schedule.

51. Fire-works of all descriptions.
52. Harness and saddlery, not including riding saddles.
53. Medicinal preparations, not elsewhere enumerated, other than pills imported in packages not for direct sale retail to the public, when prepared by any secret or occult art and recommended to the public under any general name or title as specifics for any diseases or affections whatsoever affecting the human or animal bodies.
54. Oils, essential or perfumed, including eucalyptus.
55. Perfumery, cosmetics, dyes, powders and other preparations for toilet use, not elsewhere enumerated.
56. Shawls and shawling, and loin cloths, whether in the piece or not.
Note.—3 per cent. *ad valorem* will be rebated under Article 3 of the Convention.

CLASS IV—3 *Per Cent. ad valorem.*

57. Ambulance materials, imported by recognised associations, corps, or hospitals, lawfully established for instruction or drill in first aid to the wounded.
58. Ammonium: anhydrous, carbonate, chloride, (sal-ammoniac) and nitrate: in bulk.
59. Asbestos packing and boiler compositions.
60. Assay apparatus and assay mabor.
61. Bands and belting of all kinds for driving machinery, boiler tubes, bolting cloth and mill silk.
62. Barytes and pumice: in bulk.
63. Battery cloth and baize, gauze, matting, sieving and screening for use in connection with machinery and apparatus, including brattice cloth, but not including cocoanut matting.
64. Bolts, nuts, rivets, screws, nails and washers, and brass and iron tips and caps for boots and shoes.
65. Bookbinders' requisites, consisting of boards, cloths, leather, marble paper, skin, thread, tape, vellum, webbing, wire, gold and silver leaf, parchment, imitation leather, binders' paper, and cardboard and linen board.
66. Bottles and jars of common glass or earthenware, and bottles ordinarily used for aerated waters: empty.
67. Brass and copper, and composition metal: in bars, ingots, plates and sheets; plain including perforated, but otherwise unmanufactured.

68. Calcium : carbonate, caustic, chloride, chlorate, bisulphite : in bulk. **Act 9, 1906.**
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69. Carbonic acid gas.
70. Cement, liquid, for tube mills.
71. Chains for hauling.
72. Chimneys : metal (smoke stacks).
73. Collodion cotton and glycerine and kieselguhr in bulk for manufacturing purposes.
74. Confectioners' requisites, namely, glucose, moulding starch, gelatine, and unsweetened desiccated cocoanut : in bulk.
75. Corks and bungs, and cork wood unmanufactured.
76. Cranes, elevators and shears.
77. Crucibles, cupels, cupelling furnaces, graphite, ingot moulds, retorts and furnaces for roasting minerals.
78. Cyanide of potassium and of sodium ; sulpho cyanide of potassium, sodium and calcium.
79. Disinfectants in bulk, provided they are of a standard approved by the various Governments of the Union.
80. Emery in bulk, emery cloth and paper, emery wheels.
81. Felt, rubberoid, uralite, and similar substances for building purposes.
82. Fire Clay and Terra Alba.
83. Fire escapes and fire extinguishing appliances and apparatus.
84. Fruits, fresh or green, including cocoanuts.
85. Glue : in bulk.
86. Gypsum (sulphate of lime or plaster of paris) : in bulk.
87. Hair-cloth and springs for furniture.
88. Hops.
89. Hose : conveying.
90. Hubs, rims, spokes, felloes, shafts, tent bows and poles, cut or fashioned, not finished, except when for wagons and carts commonly used for the conveyance of goods.
91. India rubber, unmanufactured.
92. Iron and steel :—
- (a) Rough and rolled, but otherwise unmanufactured.
 - (b) Plain, perforated, galvanised and corrugated sheets.
 - (c) Angle, bar, channel, hoop, rod, plate, H, T, and similar iron or steel, not perforated or put together or worked up in any way for structural or other purposes : not elsewhere enumerated.
93. Jacks, screw and hydraulic

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94. Launches, tugs and lighters; provided that when condemned or landed to be broken up duty shall be paid at the Customs on the hull and all fittings, according to the tariff that may then be in force.
95. Lead: bar, pipe, sheet, foil, and acetate of.
96. Leather: patent, enamelled, roan and morocco, and pig skin in the piece, and valve hide.
97. Lifts: power, including the gates.
98. Machinery:—
 - (a) Machinery apparatus, appliances and implements (not including material, vehicles, mechanics' tools, domestic machines, or harness) for agricultural, manufacturing, mining, bookbinding, printing, and other industrial purposes.
 - (b) Machinery, apparatus, appliances, implements and electrical material used in connection therewith, for the generation, storage, transmission, distribution of, and lighting by, gas or electric power, but not including electroliers, hand lamps, or fancy fittings.
99. Magnesium sulphate: in bulk.
100. Metal of all sorts in bars, blocks, ingots, and pigs for founding, not elsewhere described.
101. Metal shaft sets and rails, buckets, skips, trucks and tubs, wheeled or otherwise, for hauling on rails or wires.
102. Packing and lagging for engines, machinery, piping and buildings.
103. Paper: all plain paper in its original mill ream, wrapper or reels, not less in size than 16 inches by 15 inches, not including feint or ruled papers or blotting, brown, cartridge, drawing, manifold, packing or tissue papers.
104. Pipes, piping and tubes of all kinds for gas, steam, drainage, sewerage, irrigation, water supply or pumping, including meters, cocks, and taps, but not including grids, manhole covers and fittings, surface boxes, down-piping and guttering.
105. Potassium and sodium: carbonate, bi-carbonate, caustic and silicate, chlorate, chloride, bichromate, permanganate, red and yellow prussiate of: in bulk.
106. Presses: wool, hay, straw, and forage.
107. Printing, lithographic and ruling inks, roller composition and stamping colours and printers' bronze.
108. Railway construction or equipment requisites, as follows:—
 - Rails, sleepers, fastenings for rails or sleepers, girders, iron

bridge-work, culvert tops, locomotives, tenders, ballast trucks, goods wagons, carriages, trolleys, engine water-tanks, turn tables, permanent or fixed signals, weigh-bridges and railway lamps. **Act 9, 1906.**
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109. Resin : in bulk.
110. Saddle-trees.
111. School furniture and requisites : being all articles certified by the Superintendent-General of Education, or any official appointed for that purpose in any Colony or Territory in the Union to be for use in any school.
112. Sheep-dip, sheep-dipping powders, materials suitable only for dip and dipping tanks.
113. Slates for roofing.
114. Sprayers and sprinklers and other apparatus for destroying pests or diseases in stock, plants or trees.
115. Springs, axles, steps and other metal parts not ordinarily made in the Union, for carts, carriages, coaches and wagons.
116. Staves, not worked further than roughly fashioned.
117. Substances for destroying pests or diseases in stock, plants or trees, sulphate of copper, arsenic and arsenious acid, arseniate of soda : in bulk.
118. Tanks and vats, suitable and intended for mining purposes, and substructures for the same.
119. Telegraphs and telephones : materials and instruments for use in construction and working of telegraph and telephone lines.
120. Thread : boot and shoe makers', saddlers' and sailmakers', and seaming twine binding twine and harvest yarn.
121. Tin and zinc : bar, plate or sheet : plain or perforated, but otherwise unmanufactured.
122. Traction engines, power lorries and trailers for the same, stone crushers, steam rollers and street sweeping machines.
123. Tramway construction and equipment requisites as follows :—
Rails, sleepers, fastenings for rails or sleepers, iron gates, girders, iron bridge-work, culvert tops, cars, trolleys, water-tanks, and turn tables.
124. Vegetables, fresh or green, but not including garlic potatoes or onions.
125. Water-boring and pumping apparatus, and pumps, not including beer pumps.

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126. Wire and wire-netting for fencing : droppers, gates, hurdles, posts, standards, strainers, staples, stiles, winders, and other materials or fastenings of metal ordinarily used for agricultural or railway fencing ; and baling wire.
127. Wire for making mattresses.
128. Wire rope.
129. Wood :—
- (a) Unmanufactured.
- (b) Ceiling and flooring boards : planed, tongued and grooved.

Note.—The whole of the duties upon this class will be rebated under Article 3 of the Convention.

CLASS V—*Free*.

130. All raw produce of South Africa, and animals bred in South Africa imported into the Union overland.
131. All animals bred and articles grown, produced or manufactured within the Union, except :—Spirits, beer or blasting compounds, distilled or manufactured within the Union, in case of the imposition of a duty or the prohibition of manufacture for sale
- (*Vide* Article 16 of the Convention).
132. Animals, living, not elsewhere enumerated.
133. Appointments and uniforms for the military, naval, volunteer or other (Imperial or Colonial) forces of His Majesty.
134. Atlases, charts, globes and maps.
135. Bags (not including paper bags) for flour, grain, manure, local manufactures, produce, sugar, wool, coal, and minerals, and bagging and sacking in the piece.
136. Band instruments and stands, the *bona fide* property of any military, naval or volunteer corps, and not the property of individuals.
137. Bones, feathers, grass, ivory, hair, hoofs, horns, moss, shells, skins, teeth, wool and other parts of animals, birds, fishes, or reptiles, not being manufactured, polished or further prepared than dried or cleaned, but in their raw and unmanufactured state.
138. Books and music, printed, including newspapers and periodicals, not being foreign unauthorised prints of any British or South African copyright work, the importation of which is prohibited, not being advertising matter elsewhere enumerated.

139. Borax, bromine, litharge, manganese dioxide and quick-silver : in bulk. **Act 9, 1906.**
Schedule.
140. Bottles and jars of common glass or earthenware, imported full of any article liable to a rated duty only.
141. Bullion (in the bar or sheet), coin, specie, bank notes and other paper currency.
142. Carriages, carts, wagons and other wheeled vehicles, the manufacture of South Africa, imported into the Union overland.
143. Church decorations, altars, bells, fonts, lecterns, pulpits, organs, plate, or vestments, and illuminated windows, imported by or for presentation to any religious body.
144. Coir, candle wick, cotton, flax, fibre, flock, hemp, and jute : raw, waste or unmanufactured.
145. Consular uniforms and appointments, and printed official consular stationery.
146. Cork dust, paper shavings, sawdust, husks and other waste substances, intended and suitable for use only as packing material.
147. Cups, medals and other trophies imported for presentation as prizes at examinations, exhibitions, shows or other public competitions, for excellence in art, bravery, good conduct, humanity, industry, invention, manufactures, learning, science, skill or sport, or for honourable or meritorious public services, or rifle shooting by Imperial or Colonial forces or recognised rifle associations, not being for the purpose of advertisement : provided that such articles shall on importation or delivery free from the Customs bear engraved or otherwise indelibly marked on them the occasion or purpose for which presented.
148. Diagrams, designs, drawings, models and plans.
149. Diamonds and other gems, or precious stones, in their rough state.
150. Dye nuts, gambia, myrobalans, sumach, valonia, and dye-stuffs for leather : and alum.
151. Engravings, lithographs and photographs, not including enlargements or reproductions of photographs, and not being labels or advertisements elsewhere enumerated.
152. Fish fry and ova.
153. Fish : fresh, dried, cured, or salted of South African taking and raw oil from fish of South African taking.
154. Guano and other substances, animal, mineral or vegetable, artificial or natural, suitable for use as fertilisers or manures.

- Act 9, 1906.** 155. Ice.
- Schedule.** 156. Life boats, belts and buoys, and other life saving apparatus imported by any recognised Society.
157. Marble in the rough or sawn.
158. Nitrates except nitrate of ammonium, for manufacturing purposes or for fertilizers: in bulk.
159. Oils: palm, palm kernel, cotton seed: in bulk.
160. Paintings, pictures, picture books and etchings, not being advertisements or labels elsewhere enumerated.
161. Platinum, chloride of.
162. Public Stores, imported or taken out of Bond by, and *bona fide* for the sole and exclusive use of, the Government of His Britannic Majesty, and of any Government belonging to the Union, provided that a certificate be delivered to the Customs authorities given under the hand of an officer approved by the Principal Officer of Customs, setting forth that any duty levied on such public stores would be borne directly by the Government: and provided further that no portion of such stores used or unused shall be sold or otherwise disposed of so as to come into the possession of or into consumption by any persons not legally entitled to import the same free of duty, without the consent of the Principal Officer of Customs and the payment of the duties to him by the officer so selling or disposing of such public stores at the rate leviable at the date of sale.
163. Rattans, cane and bamboo: unmanufactured.
164. Sculpture, being original works of art.
165. Seeds, bulbs, plants and tubers, for planting, or sowing only, not including edible kinds or fodder.
166. Specimens illustrative of natural history and exhibits for public museums or scientific purposes, and antiquities for the same purposes.
167. Stone linings and pebbles for tube mills.
168. Sulphur: in bulk.
169. Sulphurous Anhydride.
170. Tallow.
171. Tobacco, the produce of South Africa, imported into the Union overland.
172. Vaccine virus, toxin and serum.
173. Wax: viz.:—paraffin and stearine, and stearine grease, ordinarily used in the manufacture of candles or explosives.
174. Wood meal and wood pulp.

CLASS VI—15 PER CENT.

Act 9, 1906

General ad valorem Rate 15 Per Cent.

175. All goods, wares, and merchandise not elsewhere charged with duty, and not enumerated in the Free List, and not prohibited to be imported into the Union, shall be charged with a duty of fifteen per cent, *ad valorem*.

Note.—3 per cent, *ad valorem* will be rebated under Article 3 of the Convention.

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Act No. 33, 1901.

“To consolidate and amend the Laws relating to the manufacture, storage, conveyance, and sale of Colonial spirits and wines, and the methylation of spirits.”

[19th August, 1901.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

PART I.

Preliminary.

1. This Act may be cited as the “Excise Act, 1901,” and shall take effect on the first day of January, 1902. Short Title.

2. The Laws and Acts enumerated in the First Schedule of this Act are hereby repealed, but such repeal, except as is otherwise specially provided, shall be without prejudice to anything done or commenced, or any appointment made, or any right acquired, or any liability incurred thereunder. References in any document to the provisions of the repealed Laws and Acts shall, *mutatis mutandis*, be deemed references to the corresponding provisions of this Act. Repeal.

3. In this Act, unless the context otherwise requires:—

“The Minister” means the Minister having charge of the Excise Department. Interpreta-
tion of terms.

“The Controller” means the Controller of Excise.

“Inspector” means Inspector of Distilleries.

“Officer” means an officer of the Excise Department.

“Proper Officer” means the officer charged with the performance of any particular duty.

“Distiller” and “Rectifier” mean respectively a person who distils, rectifies or compounds spirits.

“Person” includes a partnership, joint-stock company, or the like.

Act 33, 1901.

- “Licensed Premises” means any building or place used under a license granted under this Act, or under any Act relating to wine and spirit licenses.
- “Warehouse” means any building approved under this Act or the Acts relating to the Customs, for depositing therein spirituous liquors or wines.
- “New license” means a license in respect of premises for which no license of the kind applied for is in force at the date of the application.
- “Renewal license” means a license in respect of premises for which a license of the kind applied for is in force at the date of application.
- “Spirits” means alcoholic spirits of any description, whether made in or imported into the Colony, and includes all liquors mixed with spirits, and all mixtures and compounds or preparations made with or from spirits.
- “Colonial spirits” means spirits made in Natal.
- “Spirits of wine” means spirits of any strength exceeding fifty degrees overproof.
- “Compounded spirits” or “compounds” means rectified spirits which shall have had any ingredient or material whatever — not being adulterants or injurious to health—mixed therewith, or flavour communicated thereto.
- “Wort” means any liquid or substance containing saccharine matter before any fermentation has commenced.
- “Wine” means any alcoholic liquor produced from the juice of fruits by fermentation.
- “Wash” means wash prepared for distillation after fermentation has commenced.
- “Low-wines” means spirits of the first extraction by a single still, and conveyed into a low-wines receiver.
- “Feints” means spirits conveyed into a feints receiver.
- “Still” means and includes any still or apparatus for distilling or making spirits or any part of such apparatus.
- [“Methylate” means to mix spirits of wine with some substance in such manner and quantity as to render the mixture unfit for use as a beverage,

and “methylated spirits” means spirits so mixed to the satisfaction of the Controller (a).] **Act 33, 1901.**

“Proof” means the strength of proof as ascertained by Sykes’s Hydrometer.

“Liquid gallon” means an Imperial gallon.

“Regulations” means the regulations made under this Act.

“Prescribed” and “Approved” mean respectively prescribed or approved by the Controller or by the regulations, as the case may be.

“Package” or “Vessel” means any puncheon, cask, hogshead, barrel, drum, case, or other vessel which contains or is capable of containing spirits or wines.

“Colonial duty” means the duty imposed upon spirits made in this Colony and intended for home consumption.

4. Every person who makes or keeps worts, wash, low-wines, or feints, or who has in his possession or uses a still (unless such still is being merely kept or used under special provisions of this Act showing a contrary intention), shall for the purposes of this Act be deemed to be a distiller and to distil spirits. Certain act deemed to constitute distilling.

PART II.

Administration.

5. The Controller shall be the Head of the Excise Department and the Principal Officer charged with the administration of this Act and of the excise system of the Colony. Controller of Excise.

6. The Inspector or Assistant Inspector of Distilleries, Excise Surveyors, and Public Warehouse Keepers, or Assistant Excise Surveyors or Public Warehouse Keepers, shall henceforth be deemed subordinate officers of the Excise Department, and shall be responsible to the Controller of Excise for the efficient performance of any duty which may be assigned to them. Excise Officers

7. No officer shall be interested or concerned, directly or indirectly, in the manufacture, sale or trade in spirits or wines, under penalty of Fifty Pounds Sterling and immediate forfeiture of office. Officers not to be interested in liquor trade.

(a) The definitions in brackets are repealed by Act No. 25, 1905, sec. 2, which substitutes others.

Act 33, 1901.

Declaration to
be made by
Officers.

8. Every officer shall before entering on his duties make the following declaration before a Magistrate or a Justice of the Peace:—

“I.....do solemnly promise that I will execute the office to which I am appointed faithfully and without favour or affection, and that I will from time to time render true accounts to such persons as shall be appointed to receive the same, and that I will not take any fee or reward, whether pecuniary or otherwise, for anything done in my said office other than my salary or such other emoluments as are allowed by law or by the public regulations.”

Bribery: ac-
ceptance of
rewards.

9. Every officer who shall demand or accept any fee, reward or advantage whatsoever, directly or indirectly, on account of anything relative to his office, save his lawful salary and emoluments, and every person who shall give, offer or promise any such fee, reward or advantage shall be guilty of an offence.

Officers
exempt from
juries.

10. Officers of the Excise Department shall be exempt from liability to serve as jurors.

PART III.

Duty on Spirits.

11. [Repealed by Act No. 10, 1906.]

12. (1) [Repealed by Act No. 25, 1905, sec. 3.]

(2) Such regulations may provide for the placing of such rectified spirits in bond, and may empower the Controller, subject to an appeal to the Minister, if he should see fit to do so, to require that the medicines or other preparations as aforesaid shall be made in bond.

PART IV.

Licenses.

Acts for which
a license is
required.

13. No person shall, without first obtaining from the Controller the appropriate license provided for in the second schedule of this Act, do any of the following things, save as is by this Act specially excepted:—

Keep a still.

Make stills.

Distil spirits.

Rectify or compound spirits.

Sell methylated spirits by retail.

Make wine.

14. A license shall not be required.

Act 33, 1901.

(a) For a still of less capacity than six gallons, if used for experiments authorised by the Controller with the approval of the Minister, or for any special purpose similarly authorised;

Exemption of certain still.

(b) For a still imported solely for transportation through this Colony into some inland Colony or State, or for exportation by sea, and not remaining in this Colony for a longer period than thirty days, except with the consent of the Controller.

15. Applications for licenses shall be made as prescribed by this Act and the regulations.

Applications for licenses.

16. (1) Every application for a license to distil spirits or to rectify spirits shall set forth the kind of still to be used, the capacity thereof, and the place where it is to be used.

Particulars of application.

(2) In the case of a new license, the applicant shall furnish plans of the premises and of the position of the various vessels and appliances, and no distillation shall take place until the proper officer shall have given a written certificate that the premises, vessels, and appliances are erected in accordance with the plans, and to the Controller's satisfaction.

(3) In the case of a renewal license, the application shall be accompanied by the certificate of the proper officer that the buildings are suitable and in proper repair.

17. (1) The Controller shall have the discretion to refuse any application for a new license.

Refusal of new license.

(2) In the case of a refusal he shall deliver to the applicant a written statement of the reasons for refusal.

(3) The applicant shall have the right of appeal to the Governor in Council, whose decision shall be final.

18. (1) The Controller shall have the discretion to refuse a new license or a renewal license to any person who shall have been convicted of having illicitly distilled, rectified, compounded, removed, transported, or sold any spirits.

Refusal of license to person convicted of liquor offence.

(2) The conviction of a manager or responsible representative of an applicant shall, for the purposes of this section, be deemed to be a conviction of the applicant.

(3) The applicant shall have the right of appeal to the Governor in Council, whose decision shall be final.

19. No license shall be granted to keep or use any still of less capacity than one hundred and fifty gallons, nor to keep or use any apparatus capable of distilling less than two hundred gallons of wash per hour: Provided that this restriction shall not apply to any still or apparatus lawfully in use at the time of the

Minimum capacity of still and apparatus.

Act 33, 1901. commencement of this Act, so long as any such apparatus remains in use in the same place and unaltered: Provided, however, that the Controller may grant to a rectifier using a still, a license for a second still of not less than 60 gallons capacity for making essences and tinctures.

To whom licenses may be granted.

20. A license to distil, rectify, or compound spirits under this Act shall be granted only to an owner, lessee, or trustee, in actual possession of the farm or premises. In case of absence from the Colony of the owner, lessee, or trustee, a license may be granted to a manager or agent, specially appointed.

Payment of duty: particulars of license.

21. (1) The appropriate duty set forth in Schedule II. shall be paid to the Controller before a license is issued.

(2) No license shall authorise any business at more than one place or at any premises other than those specified.

(3) Licenses shall be in the prescribed form, and shall expire on the thirty-first day of December next following the date thereof.

Collector of Customs to apprise Controller of importation of still.

22. On the importation of any still, or portion of a still, into this Colony, the Collector of Customs shall, without delay, apprise the Controller thereof in writing, stating the names of the owner and the importer of the still. The Controller shall thereupon inform the owner and the importer of the liability incurred in keeping a still without a license in this Colony.

Suspension of license.

23. If the holder of any license under this Act neglects to carry out any duty imposed upon him by the Act or regulations in regard to his premises or any buildings, appliances, stock books or the like, or the mode of conducting his business, the Controller, after giving reasonable notice in writing, requiring the omission to be supplied or the irregularities corrected, and upon failure to comply with the notice, may by a further written notice to the holder of the license or his manager, declare the license to be suspended and such suspension shall continue until withdrawn by the Controller upon full compliance with the requirements of the law.

Effect of suspension or cancellation of license.

24. Any license shall, if suspended under this Act, be of no effect during the suspension, and if revoked or cancelled, shall be deemed to have expired.

Prohibition of work after expiry of license.

25. After the expiry of a license, no wort shall be made or wash fermented, or low-wines, feints, or spirits be distilled, nor shall any spirits be rectified or compounded, or be removed from the premises until a renewal license has been obtained, and any things so done shall be deemed to be done in contravention of the foregoing provisions of this Act in regard respectively to distilling, rectifying, compounding, and removal without a license:

Provided that this section shall not apply in a case where application for a renewal license has been duly made before the expiry of the former license, and the money for the license duty has been deposited, and the renewal license has not yet been granted or refused. **Act 33, 1901.**

Provided also, that the owner may, after the expiry of his license, and subject to any prescribed conditions, sell, or otherwise dispose of, any materials or other things in connection with the business remaining on his hands at the date of the expiry of the license.

26. (1) Any license under this Act may be transferred by the Controller to an approved successor of the license holder in the business, carrying on the business upon the same premises. **Transfer of license.**

(2) If the holder of a license shall obtain the permission of the Controller to remove his business to other premises, approved as hereinbefore provided, such change of premises may be noted by the Controller on the license, and such license shall thereafter apply to the new premises. **Change of premises.**

27. (1) Every person who :—

(a) Without having the necessary license does any act or keeps any still for which a license is required, or on whose premises or lands or in whose custody or possession such a still shall be : **Offence of keeping a still, or doing business without a license.**

(b) Having a license under this Act keeps or uses a still for any purpose not authorised by the license, or carries on any business or does any act not specified in the license :

shall be guilty of an offence, and upon conviction thereof shall be liable to imprisonment with or without hard labour for any term not exceeding Six months, or a fine not exceeding One Hundred Pounds Sterling, and to a further penalty equal to treble the Colonial duty for every gallon or less quantity of spirits which may be proved to have been distilled or rectified.

(2) If any person, by himself or his servant, hinders, molests, or obstructs any officer in the performance of any duty whatsoever, he shall be guilty of an offence. **Obstructing officers.**

(3) If any person uses any material, sets up wash, or uses any still between the hours of ten on Saturday night and one on Monday morning, except in cases of emergency, the proof whereof shall rest with him, he shall be guilty of an offence, and shall be liable to a fine not exceeding Twenty Pounds. **Working in prohibited hours.**

28. If any person holding a license under this Act shall carry on his business in disregard of any requirement of this Act or of the regulations relative to the premises, or to the works, **Suspension of license for acts in disregard of the Act or regulations.**

Act 33, 1901. fittings, vessels, or any apparatus, or to the mode of conducting such business, the Controller shall have the power and discretion, without prejudice to any prosecution to which such person may be liable, to suspend the license until the licensee has complied with such requirement, and until then such person shall not be entitled to receive a renewal license.

Branches of trade which may not be carried on on premises less than four miles apart.

29. (1) A distiller or rectifier shall not be licensed to carry on or be interested or concerned in the business of a dealer in, or retailer of, spirits within four miles (a) of his licensed premises.

(2) A dealer (b) in or retailer of spirits or wines shall not be licensed to carry on, or be interested or concerned in, the business of a distiller or rectifier or compounder of spirits within four miles of his licensed premises.

(3) Every person who contravenes the provisions of this section shall be liable to a fine not exceeding Three Hundred Pounds.

Name of licensee to be exhibited on premises.

30. (1) Every licensed person shall have his name securely affixed in a conspicuous place on the outside of the licensed premises in legible letters of at least two inches in height.

(2) Every neglect or refusal to comply with this Section shall be an offence.

PART V.

Regulation of Distilleries.

Entry to be made of premises, vessels, &c.

31. Every distiller shall, before he begins to prepare any wort, make entry of the premises, vessels, utensils, and fittings intended to be used by him, by signing and delivering to the proper officer for the information of the Controller an account in the prescribed form setting forth the particulars prescribed in the Third Schedule, with such further and other particulars as may be prescribed by the regulations.

False entry.

32. If anything required to be described in the account is omitted, or wrongly described or used in any place or for any purpose not according to the account, or is in any other way at variance with the account, the distiller shall be guilty of an offence unless he shall prove that any such omission, misdescription, or variance was due to a *bona fide* mistake and not intended to deceive.

(a) The words "one mile" are substituted for "four miles," wherever occurring in this sec., by Act No. 25, 1905, s. 4, post.

(b) For meaning of words "dealer" and "retailer," see Act No. 25, 1905, s. 4.

33. No change shall be made in anything mentioned in the account without the previous sanction of the Controller on a written request through the proper officer under penalty of a fine not exceeding Fifty Pounds Sterling.

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Alteration of things mentioned in entry

34. (1) Every distiller licensed under this Act shall, before using any still or apparatus for distilling any low-wines, feints, or spirits, erect and keep erected in his distillery a secure safe and receiver, or safes and receivers for low-wines, feints, or spirits: Provided, however, that where an alcoholometer is used the Controller may dispense with the receivers.

Erection of safes and receivers: Requisites in connection therewith: Accommodation of Inspecting officer

(2) The worm end of every still shall be enclosed in such safe, and such safe shall communicate only by a close metal pipe with the respective receivers for low wines, feints or spirits, or with the alcoholometer, when such is used.

(3) Every still, safe and receiver, and the pipes connected therewith, shall be constructed and provided with fastenings, cocks, taps, or other requirements for the reception of revenue locks or rods to the satisfaction of the Controller or some officer deputed by him.

(4) Only such rods and revenue locks and keys as shall be provided and approved by the Controller at Government expense shall be used in any distillery. Every safe and receiver shall be kept locked unless opened for a lawful purpose, under the supervision of the Excise Surveyor, or when allowed to be open under the inspection of the Controller.

(5) Such provision shall be made by each distiller for the safe custody of the keys and locks when not required to be in use, and for the accommodation of the officer when attending on duty, as shall be deemed necessary and approved by the Controller.

35. The Controller shall require that Siemens's Alcoholometer, or any other instrument of such kind and pattern as may for the time being be approved, shall be provided by a distiller for the purpose of measuring and indicating the liquid and proof quantities of spirits distilled, as such spirits pass from the still, and may give all such directions as he shall think fit with respect to the erection, securing, and use of such instrument and the attachments, whether with or without a safe or receptacle.

Siemens's alcoholometer to be provided.

36. If any such instrument is adopted in an existing distillery there shall be paid to the distiller from the Colonial Revenue such a sum as the Minister may approve, but not exceeding Seventy Pounds Sterling, towards the cost of such instrument and structural alterations, but if adopted in any new distillery the distiller must bear the entire cost.

Contribution from revenue towards cost of alcoholometer erected in existing distillery.

Act 33, 1901.

Approval of vats and butts for low-wines, feints, or spirits for distillation.

37. Each vat or butt, other than the receivers, required to be kept at any distillery for the reception of low-wines, feints, or spirits for re-distillation must be approved by the Controller in the following respects :—

- (a) It must be securely and conveniently erected and fixed;
- (b) It must communicate with the discharging cocks of the respective receivers by a close metal or other satisfactory pipe ;
- (c) It must be marked and kept marked in accordance with the provisions of the Fourth Schedule, first part ;
- (d) It must be accessible at all times for taking an account of the quantity or strength of the contents.

Saleable spirits not to be adulterated.

38. (1) There shall not be mixed with or added to any saleable spirits in a distillery or store, any substance whatever other than such water as the Controller may specially authorise for reducing the strength of spirits or colouring matter to spirits for exportation.

(2) For any contravention of this section the distiller shall, in addition to any other penalty, be liable to forfeiture of the spirits to which any substance has been unlawfully added.

Conditions for running off spirits, &c., gauging and marking vessels.

39. The Controller may prescribe the conditions for the running off of low-wines, feints, or spirits, from the receivers for re-distillation, and for the gauging and marking of all vats and other vessels.

Forfeiture of spirits, worts, &c., illicitly kept.

40. If any wort or wash, low-wines, feints or spirits are found on any unauthorised part of the licensed premises, or in any vessels other than those provided for their reception and duly marked and entered, or in any premises or place not entered for their reception, the same shall be forfeited and the licensee shall be liable to a penalty not exceeding One Hundred Pounds Sterling.

Illicit removal of spirits, worts, &c.

41. If any person removes any worts, wash, low-wines, feints or spirits from the premises of a distiller, or spirits from the premises of a rectifier, otherwise than as prescribed, or knowingly buys or receives any wort, wash, low wines, feints or spirits so removed, he shall be guilty of an offence.

Stoppage and examination of spirits in course of removal.

42. (1) Any Officer of Excise or Customs and any police constable may stop and detain any person whom he shall reasonably suppose to be carrying or removing any colonial spirits from a distillery or warehouse, or imported spirits from a wharf or warehouse, and may examine the spirits or any package or vessel supposed to contain such spirits, and may require the production of the permit.

(2) If a proper permit is produced corresponding with the

spirits in all respects, the officer may endorse thereon the time and place of his examination. **Act 33, 1901.**

(3) If any person is found so carrying or removing any colonial spirits, and does not on request by such officer forthwith produce the proper permit, he shall be guilty of an offence.

43. If any person knowingly

(a) Sells or delivers, or causes to be sold or delivered, any colonial spirits to the end that they may be unlawfully retailed or consumed or carried into consumption, or

Illicit selling and buying of Colonial spirits.

(b) Receives, buys, or procures any such spirits from a person not having authority to sell or deliver the same,

he shall be guilty of an offence.

44. If any person knowingly buys or receives, or has in his possession, any colonial spirits after they have been removed from the place where they ought to have been charged with duty, and before the duty has been paid or secured in the prescribed manner, he shall be guilty of an offence, and shall be liable to the forfeiture of the spirits and to a fine equal to treble the value of the spirits.

Buying or receiving spirits without duty being paid.

45. The capacity of all receivers, fixed vats or butts, and of moveable casks in a distillery shall be ascertained in such manner as shall be prescribed by the Controller, and all necessary weights and appliances for that purpose shall be supplied by the distiller.

Ascertaining capacity of receivers, vats &c.

46. (1) Every distiller shall provide himself with and keep a stock-book at an approved place in his distillery. Such stock-book shall be in the form and shall contain the particulars to be prescribed by regulations to be framed under this Act.

Stock books.

(2) The distiller shall make the entries in his stock-book on the day that wash is set up, the low-wines, feints or spirits distilled, or the account thereof taken, when the spirits are removed or delivered from spirit store, or at any other time if requested so to do by an officer.

(3) The distiller shall keep such book open to inspection by an officer, and shall allow such officer to make any entries therein which shall be initialled by such officer or he may take any extract therefrom [for a period of not less than twelve months after it is filled up (a)].

(4) If any distiller shall fail to keep such book or to produce the same when required by any officer so to do, or shall fail to make in such book any entry required to be made therein, or

(a) Words in brackets are repealed by Act No. 25, 1905, s. 5, post.

Act 33, 1901. shall fraudulently make any entry in such book, or shall cancel or obliterate any entry therein, or shall mutilate or tear therefrom any leaf, or shall by himself, or any person in his employ, conceal or convey away such book, he shall be guilty of an offence.

(5) An incorrect entry in a stock-book shall not be erased or obliterated, but shall be cancelled by drawing a thin line through it, and the correct entry made and such cancellation shall be initialled by the person making same. For any contravention of this section, the distiller shall be liable to a penalty not exceeding Fifty Pounds.

47. [Repealed by Act No. 25, 1905, s. 6.]

48. (2) If any distiller shall refuse or neglect to deliver such return as aforesaid, or if any return so made by a distiller or person on his behalf shall be wilfully false in any respect the distiller shall for every such offence incur a penalty not exceeding Fifty Pounds (*a*).

Spirit store.

49. (1) Every distiller shall provide at his distillery a suitable and secure spirit store (*b*) to be approved by the Controller.

(2) The spirit store shall be set apart solely for the storing of spirits as distilled, of colouring matter, and of casks intended for removal of spirits. Its situation and security shall be to the satisfaction of the Controller.

(3) The spirit store shall be placed under two locks, namely, a revenue lock, for which the distiller must provide at his own expense all necessary fastenings as required by this Act, and a private lock, the key whereof shall be kept by the distiller.

50. [Repealed by Act No. 25, 1905, s. 9.]

51. No spirits shall be removed from a store between the hours of 5 p.m. and 7 a.m., nor until :

(*a*) The home consumption duty has been paid ; or

(*b*) In the case of spirits removed for exportation by sea, or into a warehouse, or into a methylating room at the distillery premises, a bond has been entered into to the satisfaction of the Controller, and in the prescribed form, for treble the Colonial duty.

52. (1) The proper officer shall regauge every vessel of

Duty to be paid or bond given before removal :
Hours for removal.

Regauging before removal, allowance for deficiency.

(*a*) Sub-s. (1) of this sec. is repealed by Act No. 25, 1905, s. 8, which substitutes other provisions.

(*b*) The word " store " means distiller's warehouse ; see Act No. 25, 1905, s. 11.

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spirits before removal from a store (*a*), and shall grant from any deficiency arising solely from natural causes or unavoidable accident the rate of allowance authorised in the Fifth Schedule, and for any deficiency exceeding the said allowance duty must be paid before the spirits are removed.

(2) The proper officer shall at least once in every twelve calendar months regauge the whole stock of spirits in a store in the prescribed manner. Periodical regauging of stock.

(3) If on balancing the stock so taken, computed at proof any increase of spirits is found, the excess shall be forfeited, and the distiller shall in addition forfeit ten shillings for each gallon in excess. Excess of stock.

(4) If any deficiency of spirits is found exceeding the allowance authorised by the Fifth Schedule, the Colonial duty must be forthwith paid thereon: Provided that if a distiller can prove to the satisfaction of the Controller that an excess deficiency had been caused by an accident or unavoidable cause, the Controller may, with the approval of the Minister, remit the duty on the whole deficiency so caused (*b*). Deficiency.

53. (1) The Controller or proper officer may take at any time a sample of spirits from the stock of any distiller, rectifier, or compounder, or from the contents of a still before it has begun to work or after it has ceased working, and if there is found in the still at a rectifier's any wine or wash or low wines put into or mixed with feints or spirits, the rectifier shall be liable to a fine not exceeding One Hundred Pounds. Sampling spirits.
Offence of mixing wine or wash with spirits or feints.

(2) Any officer shall be empowered to take a sample of spirits or wines of the prescribed quantity from the stock of any distiller, rectifier, or compounder, or of any wholesale or retail dealer in wines and spirits, on payment of the current price if demanded, and any person who shall refuse to supply such sample shall be liable to a fine not exceeding Fifty Pounds. Sampling stock of distiller, &c., or of wine and spirit dealer.

PART VI.

Warehouses.

54. The Controller may appoint any building as a warehouse for public use for the receipt and storage of spirits and imported wines without payment of the duty thereon, and for the receipt and storage of Colonial wines. Warehouses for spirits and imported wines.

(*a*) The word "store" means distiller's warehouse: see Act No. 25, 1905, s. 11.

(*b*) See Act No. 25, 1905, s. 7, repealing this sec. in so far as it may be in conflict therewith.

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Such appointment shall be notified in the *Government Gazette*.

Warehouse risks.

55. All wines and spirits so warehoused shall, so long as they remain in such warehouse, be and continue at the sole risk of the person warehousing the same, and the Government or its officers shall be under no liability for any loss or damage occurring through any cause whatever, or for any wrong or improper receipt or delivery.

Hours of business.

56. Every warehouse shall be kept open for the receipt and delivery of spirits and wines during such hours as may be prescribed by the Controller.

Particulars as to reception.

57. All Colonial spirits or compounds or wines must be received into a warehouse in such quantity and in packages or vessels numbered or marked as prescribed for their removal from licensed premises.

Warehousing imported spirits or wines.

58. All imported spirits or wines must be warehoused in the packages or other vessels in which they were landed or removed from a Customs warehouse.

Permit for reception in warehouse.

59. All spirits or imported wines received into a warehouse must be accompanied by a permit in the prescribed form.

Detention of spirits irregularly warehoused.

60. If any spirits or imported wines are received into a warehouse not accompanied by a permit, or if the marks on the packages or vessels differ from the marks entered in the permit, such spirits or wines shall be detained in the warehouse until the missing document is produced, or until proper proof thereof, or a satisfactory explanation of the discrepancy is given.

Account to be taken on arrival at warehouse.

61. (1) Immediately on the arrival of any spirits or imported wines at a warehouse, the proper officer shall take an account of the quantity and strength of such spirits or wines and shall enter such account, with the mark and number of each package or vessel containing the spirits or wines, in a book to be kept by him for that purpose.

Acknowledgement.

(2) The officer shall thereupon forward to the person warehousing, and to the Controller or to the Collector of Customs as the case may be, an acknowledgement specifying the several particulars according to the prescribed form.

Deficiency.

(3) When the account so taken shows a deficiency compared with the quantity endorsed on the permit or certificate, the officer may deduct the allowance for loss authorised in the Fifth Schedule, but for any deficiency in excess of the said allowance duty must be forthwith paid thereon :

Provided that if any such deficiency shall appear to arise from any unlawful cause no allowance whatever shall be made, and duty must be paid on the whole quantity deficient :

Provided also that if the importer can prove to the satisfaction of the Controller than an excess deficiency had been caused by an accident or unavoidable cause, the Controller may, with the approval of the Minister, remit the duty on the whole deficiency so caused. **Act 33, 1901.**

(4) No such spirits or wines shall be removed from the warehouse till such duty has been paid. Duty to be paid before removal.

62. Any spirits whilst in a warehouse may be transferred to a purchaser, or racked, blended, or bottled in such manner and subject to such conditions as may be prescribed, and at the owner's expense. Transfer, racking, blending, or bottling in warehouse.

63. If the owner or his agent neglect or refuse to mark or to keep marked, or to properly secure any vessel containing racked, blended, or bottled spirits or wines, the owner shall incur a fine not exceeding Fifty Pounds, and no such spirits or wines shall be removed from the warehouse until properly marked. Penalty for certain irregularities.

64. For any unavoidable loss of spirits or imported wines during the process of racking, blending or bottling, an allowance may be made not exceeding the rate authorised in the Fifth Schedule, and duty must be paid forthwith on any deficiency in excess of the said rates. Allowance for loss in racking &c.

65. The Controller may allow samples to be taken in a warehouse in quantities according to his directions without payment of duty. Taking of samples in warehouse.

66. The charges for storage and labour in a warehouse shall be at such rates as may be prescribed by the regulations to be framed under this Act. Charges for storage and labour in warehouse.

67. (1) No spirits or imported wines, except samples taken as aforesaid, shall be removed from a warehouse until all duties and charges thereon have been paid to the Controller, or (in the case hereinafter provided) unless a bond has been given to his satisfaction in the prescribed form; nor shall they be removed except in packages or vessels marked in the prescribed manner. Duty to be paid or bond given before removal of spirits or imported wines.

(2) Any person concerned in a removal contrary to this section shall be liable to a fine not exceeding One Hundred Pounds, and in default, to imprisonment not exceeding twelve months. Illegal removal.

68. Spirits may be removed from a warehouse under the prescribed conditions for any of the following purposes:— Purposes for which spirits may be removed from warehouse.

(a) For consumption in the Colony on payment of the duty thereon.

(b) For use by chemists or druggists on payment of the special duty leviable thereon.

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- (c) For rectifying or compounding after payment of the duty.
- (d) For exportation by sea on the execution of the prescribed bond.
- (e) For conveyance overland beyond the borders of Natal on the execution of the prescribed bond, and on the payment of such special duty as may from time to time be leviable upon spirits so exported.
- (f) For removal into another bonded warehouse upon the execution of the prescribed bond.
- (g) For special use in the Government Laboratory, free of duty, in quantities not exceeding fifty gallons at any one time.

Purposes for which imported wines may be removed.

69. Imported wines may be removed from a warehouse for any of the purposes specified in sub-sections (a), (d), (e), and (f) of the foregoing sections, and under similar conditions respectively as to the payment of duty, or the security therefor.

Sale of spirits and wines left in warehouse for three years.

70. (1) All spirits and wines may, after being three years in a warehouse, be sold by the Controller, unless all duties and charges thereon shall have been paid within fourteen days after written demand therefor.

(2) This section shall not apply to any spirits or wines kept for maturing purposes under special arrangements with the Controller.

PART VII.

Rectifying and Compounding.

Entry to be made by rectifier or compounder.

71. (1) Every person licensed to rectify or compound spirits shall before receiving any spirits for rectifying or compounding, make entry with the proper officer setting forth the particulars specified in the Third Schedule.

(2) If a rectifier or compounder makes any false entry, or uses or allows to be used any room, vessel, or utensil for any illicit purpose, he shall be guilty of an offence.

Things to be erected, provided, and done by rectifier or compounder.

72. (1) Every person licensed to rectify or compound shall, at his own expense, and to the satisfaction of the Controller :—

- (a) Erect, place, affix, and maintain each still, vessel, or utensil in a convenient situation.
- (b) Provide and maintain with each still requisite pipes, cocks, fittings and fastenings.
- (c) Provide and maintain a one-gallon standard measure.
- (d) Mark and keep marked by a distinguishing letter or number, or both, every room, vessel, or utensil

where, and in which spirits or Colonial compounds are to be kept, stored or removed. **Act 33, 1901.**

73. Every rectifier shall provide and maintain at his own expense, to the satisfaction of the Controller, sufficient receivers and vats with proper and secure fastenings for the storage of spirits for rectifying and compounding or for rectified or compounded spirits. **Receivers and vats.**

74. (1) No person may make entry of or use for rectifying or compounding spirits, or for receiving or keeping spirits as a rectifier or compounder, any premises within a quarter of a mile of any premises entered or used for brewing, or making wort or wash, or for distilling spirits, or for receiving or keeping spirits by a distiller. **Certain businesses to be on separate premises.**

(2) A rectifier keeping a still may not carry on upon his premises the business of a brewer of beer, vinegar, cider, or perry, or a refiner of sugar, or a dealer in or a retailer of wine, spirits, or beer; nor carry on the business of a rectifier keeping a still on premises communicating with any of the aforesaid businesses otherwise than by an open street or public road.

(3) Any person contravening this section shall incur a fine not exceeding One Hundred Pounds for every week during which the contravention has continued.

75. A rectifier keeping a still shall not have in his possession any wort, wash, fermented liquor, or materials capable of being distilled into low wines or spirits; nor distil or extract low wines or spirits from any material except spirits on which duty has been paid; nor have in his possession any spirits for which he has not received a permit as hereinafter provided, or any spirits except such as have been rectified or compounded by him as spirits of wine or colonial compounds. If a rectifier contravenes this section he shall for each offence, in addition to any other penalty, incur a fine of Thirty Shillings for every gallon of wort, wash, fermented liquor, or other material, or of the low wines or spirits in respect of which the offence is committed: Provided, however, that such fine shall not exceed £500. **Rectifier not to keep certain things, or distil, &c., except from duty-paid spirits.**

76. (1) None but spirits on which duty has been paid shall be received into the premises or stock of a rectifier or compounder, or be used for rectifying or compounding. **Only duty-paid spirits to be received by rectifier or compounder.**

(2) All spirits received must be accompanied by a permit in the prescribed form and in not less quantity than twelve liquid gallons. Duty paid spirits may be received from a distillery store or an Excise or Customs Warehouse. **Permit.**
Whence spirits may be received.

(3) For any contravention of this section the spirits shall be forfeited and the rectifier shall be liable to a penalty not exceeding One Hundred Pounds.

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Notice of receipt of spirits.

Proceedings thereafter.

Sending out spirits.

Stock account at rectifier's or compounder's.

Warehousing rectified or compounded spirits.

77. A rectifier or compounder shall, on receipt of any spirits, give notice thereof in writing to the proper officer, and deliver to him the permit received with the spirits. [Unless such officer neglects to attend within three hours after receiving the notice, the rectifier or compounder shall not, until the proper officer has taken an account of the spirits so received, break bulk or draw off any portion of the spirits or add water or anything thereto, or in any respect alter the same, or tap, open, alter or change any cask or package containing any such spirits (a).]

78. (1) A rectifier shall not send out any spirits except Colonial compounds or spirits of wine in less quantity than two gallons. All spirits must be sent out in approved packages or vessels, with the description correctly marked thereon.

(2) Any rectifier or compounder contravening this section shall for each offence incur a fine not exceeding Fifty Pounds; and all spirits or compounds sent out in contravention of this section, together with all horses, cattle, conveyances and boats made use of in conveying the same may be forfeited: Provided that if the owner of any such horses, cattle, conveyances or boats (not being himself a party to such offence) shall prove that they were used without any connivance on his part, they shall not be forfeited.

79. (1) The stock account of spirits at a rectifier's or compounder's shall be kept in such form, and be taken at such times, as the Controller may direct.

(2) If a still is at work when the account is taken, all spirits produced from the charge of the still must be kept apart from the remainder of the stock until the account has been completed.

(3) If, on balancing the stock, any excess appears, exceeding one half per centum, a quantity of spirits equal thereto computed at proof shall be forfeited, and the rectifier or compounder shall incur a fine of Ten Shillings for every gallon of such excess.

(4) If, on balancing the stock, there is any deficiency not duly accounted for by spirits sent out with certificate and exceeding five per centum on the balance struck when the account was last taken, together with the quantity since lawfully received, and rectified or compounded, the rectifier or compounder shall incur the fine of Ten Shillings for every gallon of such deficiency (b).

80. (1) Rectified or compounded spirits may be deposited in a warehouse.

(a) Words in brackets are repealed by Act No. 25, 1905, s. 13, post.

(b) Act No. 25, 1905, s. 14, enacts that this sub-s. shall not apply to a Rectifier using only duty-paid spirits.

(a) Colonial compounds so warehoused must be of a strength not exceeding eleven degrees overproof, and must be in approved packages, or vessels of not less capacity than [four gallons (a)]. **Act 33, 1901.**

(b) All packages or vessels warehoused in any one year from the same premises must be numbered consecutively and marked as prescribed in the Sixth Schedule.

(2) The rectifier or compounder shall, before warehousing Colonial compounds or spirits of wine, deliver to the officer in charge of such warehouse, a warehousing entry specifying the full particulars of the packages or vessels and their contents.

81. If the strength of the Colonial compounds or of liqueurs cannot be ascertained by Sykes's Hydrometer, the officer shall take a sample thereof in the prescribed manner, and the Controller shall have the sample analysed, and the strength as found by such analysis, less five degrees, shall be deemed for the purpose of this Act the true strength of such compounds or liqueurs. **Analysis where strength cannot be gauged.**

82. [Repealed by Act No. 25, 1905, s. 16.]

83. Notwithstanding any provisions of this Act, the Controller may authorise the removal from a rectifier's stock of rectified spirits in quantities of not less than four or more than twenty gallons on the same day into a room specially provided by the rectifier and approved by the Controller on or adjoining the rectifying premises, for the purpose of making essences or tinctures under such conditions as he may prescribe. **Removal by permission for making essences or tinctures.**

PART VIII.

Wine and Spirit Dealers.

84. (1) Wholesale or retail dealers in wines or spirits (hereinafter referred to as dealers) shall receive spirits or wines only from : **From whom, and in what quantities, dealers may receive spirits and Colonial wine.**

- (a) Licensed distillers ;
- (b) Licensed rectifiers or compounders ;
- (c) An Excise or Customs warehouse ;
- (d) Any authorised wharf at the port of landing ;
- (e) Licensed dealers ;
- (f) Foreign makers or dealers ;
- (g) Any public sale of spirits or wines sold by the order of the Imperial or Colonial Government, or of a Court, or of the Controller of Excise, or Collector of

(a) The words "two gallons" are substituted for those in brackets, by Act No. 25, 1905, s. 15.

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Customs, or of a trustee in insolvency or the like, or of the representatives of the estate of a deceased person.

(2) Spirits or wines may be received at one time and of the same denomination in not less quantity than two gallons, or in the quantity prescribed by this Act in respect of the removal of spirits.

(3) Colonial wine may be received from a licensed maker of wine.

Requisites regarding wines and spirits in possession of a dealer.

85. A dealer shall not receive or have in his possession any spirits or wines whatever unless.

(a) Contained in packages or vessels marked in accordance with this Act or the Regulations :

(b) Accompanied by a permit or certificate granted by a proper officer in the prescribed form.

86. [Repealed by Act No. 25, 1905, s. 17.]

PART IX.

Methylated Spirits.

Exemption from duty.

87. Methylated spirits made under the provisions of this Act from Colonial spirits shall be exempt from duty.

88. [Repealed by Act No. 25, 1905, s. 18.]

Who may methylate.

89. No person shall methylate spirits except distillers and rectifiers using a still, if so authorised by the Controller.

90. [Repealed by Act No. 25, 1905, s. 19.]

91. [Repealed by Act No. 25, 1905, s. 20.]

What spirits may be used.

92. It shall be lawful to use only spirits manufactured in the Colony and of a strength of not less than fifty-nine degrees overproof for the purpose of methylation.

93. (1) [Repealed by Act No. 25, 1905, s. 21.]

Conditions to be observed.

(2) The methylation of spirits and the storage and removal of methylated spirits, shall be carried out in the manner and subject to the conditions prescribed by the regulations.

94. [Repealed by Act No. 25, 1905, s. 22.]

Who may sell methylated spirits.

95. The following persons and no others shall be allowed to sell or supply methylated spirits :—

(a) Licensed methylators ;

(b) Persons licensed to retail methylated spirits (in this Act called “methylated spirit retailers”).

To whom methylated spirits may be supplied.

96. A methylator shall not supply methylated spirits to any person except :—

(a) A methylated spirit retailer ;

(b) [A person specially authorised as hereinafter provided (a).] **Act 33, 1901.**

(c) An agent or master of a ship when the spirits are to be exported.

97. [Repealed by Act No. 25, 1905, s. 24.]

98. [Repealed by Act No. 25, 1905, s. 25.]

99. (1) Imported methylated spirits must be immediately deposited in a bonded warehouse, and shall not be removed therefrom until all import duties and charges are paid. **Imported methylated spirits.**

(2) Imported methylated spirits shall be subject to the same conditions and restrictions as regards marking of vessels, quantity for removal, request notes and permits, as Colonial made spirits.

100. (1) A license to sell methylated spirits by retail under this Act shall not be granted to a person carrying on any of the following businesses or trades, that is to say :— **License to sell by retail not to be granted to certain persons.**

(a) A dealer in or retailer of spirits, wines, cordials, ale, beer, or porter ;

(b) A distiller; rectifier or compounder of spirits ;

(c) A brewer of ale, beer, porter or other fermented liquors.

(2) No person carrying on any such business or trade as hereinbefore mentioned shall have in his premises or in any premises connected therewith by any private or internal communication methylated spirits except such as he may have lawfully made or received from a methylated spirit retailer. **Such persons not to keep stock of methylated spirits on their premises.**

101. A retailer of methylated spirits :—

(a) Shall make entry with the proper officer, in the prescribed form, of each room or place where he intends to keep and sell the spirits ;

(b) Shall not keep or sell the spirits in any place which is not so entered ;

(c) Shall not receive or have in his possession at any one time a greater quantity than one hundred and ten gallons (b) ;

(f) Shall keep an account, in the prescribed form, of his stock of methylated spirits for examination by an officer. **Duties of retailer of methylated spirits.**

102. Any person engaged in the wine and spirit trade, or brewer of beer, having in his possession or on his licensed **Offences by persons in the liquor trade.**

(a) Words in brackets are repealed by Act No. 25, 1905, s. 23, which substitutes in lieu thereof: "A person specially authorised by the Controller under the regulations."

(b) Sub-ss. (d) and (e) are repealed by Act No. 25, 1905, s. 26, which substitutes others in lieu thereof.

Act 33, 1901. premises any methylated spirits, other than such as have been received from a methylated spirit retailer, or exceeding in quantity [two gallons (*a*)] at any one time, save as is by this Act excepted, or who shall have any such spirits in an unauthorised place, or who shall tamper with, or mix any ingredient, either liquid or solid, with such methylated spirits, or who shall trade in or dispose of such spirits in any manner whatever, shall be guilty of an offence.

Offences by persons not licensed.

103. (1) If any person not being licensed as aforesaid :—

- (*a*) Shall be in possession of more than [two gallons (*b*)] of methylated spirits, except as otherwise specially provided for in this Act ;
- (*b*) Prepares or attempts to prepare any methylated spirits for use as a beverage, or as a mixture with a beverage ; or
- (*c*) Sells any methylated spirits whether so prepared or not as or for a beverage, or mixed with a beverage ; or
- (*d*) Uses any methylated spirits or any derivative thereof in the preparation of any article capable of being used wholly or partially as a beverage or internally as a medicine ; or
- (*e*) Sells or has in his possession any such article in the preparation of which methylated spirits or any derivative thereof has been used ; or
- (*f*) Has in his possession any methylated spirits not obtained from a person authorised to supply them ; or
- (*g*) Not being a methylator shall store or have in his possession any methylic alcohol or other substance for methylating spirits ;

he shall be liable to a fine not exceeding One Hundred Pounds Sterling, and to forfeiture of all such spirits and other substance as aforesaid.

(2) Nothing in this section shall apply to the use of methylated spirits or any derivative thereof, in the preparation of sulphuric ether or chloroform for use as a medicine, or in any art or manufacture, or prevent the sale or possession of any sulphuric ether or chloroform for such use. The proof of any such ground of exemption shall rest with the person charged.

(*a*) The words " five gallons " are substituted for " two gallons," wherever occurring in this sec., by Act No. 25, 1905, s. 27.

(*b*) The words " five gallons " are substituted for " two gallons," wherever occurring in this sec., by Act No. 25, 1905, s. 27.

(3) Nothing in Sub-section (g) shall apply to a person importing such methylic alcohol or other substance solely for supplying methylators, and not storing them except in an approved warehouse. **Act 33, 1901.**

104. All Laws which prohibit the sale of spirits to Natives, or restrict the sale of spirits to Indians, shall be deemed to extend to methylated spirits. **Natives and Indians.**

PART X.

Permits, Certificates, and Stock Books.

105. (1) No spirits may be sent out or delivered from a distiller's spirit store or a warehouse unless accompanied by a permit. **Permits for sending out or removing spirits.**

(2) No spirits may be removed without a permit from any wharf at the port of landing except into a warehouse less than a quarter of a mile distant.

(3) No spirits may be sent out or delivered from the premises of a rectifier or compounder unless accompanied by the certificate hereinafter provided for.

(4) All spirits sent out, delivered or removed in contravention of this section, together with all horses, cattle, vehicles, and boats made use of in conveying the same may be forfeited, and every person in whose possession the same are found shall be liable to a fine not exceeding One Hundred Pounds, or at the election of the Controller a fine equal to double the duty on the spirits: Provided that if the owner of any such horses, cattle, conveyances or boats (not being himself a party to such offence) shall prove that they were used without any connivance on his part, they shall not be forfeited.

(5) If any question arises as to the accuracy of the description of the spirits in a permit, the burden of proof that the spirits correspond to the description shall lie on the person charged.

106. (1) A permit may be granted by the Controller or officer deputed by him upon a request note by a distiller or by an owner of spirits. **Grant of permits.**

(2) The request note and permit shall contain the particulars specified in that behalf in the Seventh Schedule.

(3) The permit shall be in such form and for such quantities and shall impose such conditions as may be prescribed by the regulations, which conditions shall be binding on the persons concerned.

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(4) A permit shall not be granted for the removal of any spirits unless the duty thereon shall have been received, or security, if proper to be given, has been lodged.

(5) A permit may be renewed or extended on sufficient reason being shown to the officer.

Certificate books for rectifiers and compounders.

107. (1) Every rectifier or compounder shall from time to time, by written request, obtain from the Controller a certificate book.

(2) The certificate book shall be kept and used, and certificates given and delivered, and inspection shall be permitted, as may be prescribed, and the book when finished shall at once be returned to the Controller.

Offences in respect of permits and certificates.

108. (1) Any person who uses any deception in order to obtain or in connection with the use of any permit or certificate, or who gives a certificate for any improper purpose, or who makes or allows any improper use of a permit, shall be guilty of an offence.

(2) A permit shall be deemed to be a pass within the meaning of the "Fraudulent Passes Act, 1895."

(3) If any rectifier or compounder shall mutilate a certificate book or make any improper use of a permit or certificate, he shall be guilty of an offence, and it shall be in the discretion of the Court, in addition to any other punishment, to declare the license forfeited.

Spirits not according to description in certificate.

109. If any spirits are found to be more than one per centum above or more than two per centum below the strength stated in the certificate, the like penalties shall be incurred as if no certificate had been given.

Cancellation of permit or certificate on receipt of spirits.

110. (1) Every rectifier, compounder and dealer shall, on receiving spirits accompanied by a permit or certificate, immediately cancel the permit or certificate in the prescribed manner, and shall deliver the cancelled permit or certificate to the proper officer.

(2) Such certificate shall be kept for twelve months, and may then be destroyed.

Rectifier's or compounder's stock book.

111. (1) Every rectifier or compounder shall provide himself with and keep a stock book, according to the prescribed form, and shall on receiving any spirits, enter in such book the particulars specified in that behalf in the Seventh Schedule.

(2) A rectifier or compounder shall also enter in his stock book a true account of all spirits sold and delivered from stock as prescribed in that behalf in the Seventh Schedule.

(3) Such entries shall be made on the day when the spirits are received, sent out, or delivered.

(4) The stock book shall be kept on the licensed premises and open to inspection by any officer, and such officer, may make any entry therein or take any extract therefrom. **Act 33, 1901.**

(5) The stock book shall be kept open to such inspection for twelve months after it is filled up.

112. If any rectifier or compounder makes a false entry in his stock book, or destroys, obliterates, or alters any entry he shall be guilty of an offence. **False entries: falsification.**

113. (1) If any rectifier or compounder or any persons employed by him commits an error in making any entry required to be made in his stock book or in any other document required to be filled up by him, the incorrect entry shall not be obliterated or erased, but shall be cancelled by drawing a line through it, and the correct entry made, and such cancellation shall be initialled by the person making same. **Mode of correcting errors in entry.**

(2) For any contravention of this section the rectifier or compounder shall be liable to a fine not exceeding Fifty Pounds Sterling.

114. (1) Every person licensed under this Act shall provide a set of standard measures, and, on demand by an officer, scales and weights to the satisfaction of the Controller for the purpose of measuring, weighing, and taking an account of the spirits on his licensed premises. **Measures, scales, and weights to be provided by licensed persons.**

(2) Such licensed person shall permit any officer to use his measures, scales and weights for the purpose aforesaid, and shall, whenever required by any officer, measure or weigh and assist in measuring or weighing as he requires and in taking account of any such spirits as aforesaid.

(3) If any licensed person provides or permits to be used any false measure, scales or weights, or practises any device or contrivance by which an officer may be prevented from or hindered or deceived in taking the true quantity, measure or weight of any spirits or of any vessel, he shall be liable to a fine not exceeding One Hundred Pounds Sterling, and any such measures, scales and weights shall be forfeited.

115. (1) Where any storeroom, place, vessel, utensil, or fitting is by this Act directed to be secured or locked the licenseholder shall, to the satisfaction of the Controller, or other proper officer, provide, affix, repair and renew all plugs, cocks, taps, fastenings and requisites for the purpose of enabling officers to affix locks thereto or otherwise secure the same. **License holder to provide plugs, &c., where required.**

(2) In the event of any failure on the part of the licenseholder the Controller may make good the defect at the expense of the license holder.

Act 33, 1901.Rods, locks,
and keys.Injury
thereto, or to
pipes, &c.

116. (1) All requisite rods, locks and keys shall be provided by the Controller at the public expense.

(2) If any rod, lock or key shall be tampered with, broken, injured or destroyed, or if any pipe, cock or fastening connected with a safe or receiver shall be pierced, broken or injured, the license-holder shall be obliged to repair or renew the same to the satisfaction of the Controller, or such repairs or renewal may be made by the Controller at the expense of the license-holder.

(3) If any such tampering, breakage, injury, piercing or destruction shall have been either directly or indirectly caused by the wilful act, connivance, neglect or improper conduct of the license-holder, or any person employed in or about the premises, such license-holder, in addition to paying the cost of the requisite renewal or repairs as prescribed by this Act, shall be liable to a fine not exceeding One Hundred Pounds Sterling. The burden of showing that any such breakage, piercing or destruction was not so caused shall rest with the license-holder.

PART XI.

*Manufacture of Wine.*Colonial wine
free from
duty.Quantities in
which it may
be sold.Annual declar-
ation of
quantity made.Strength of
wine: fortify-
ing wine.

117. (1) Wines made in Natal under a license shall be exempt from duty.

(2) The holder of a license to make wine shall be allowed to sell any wines made by him in cask or bottle, in quantities of not less than two gallons, without being required to take out a license under any Act relating to the sale of intoxicating liquors.

118. Every person licensed to make wine shall in the month of January in each year lodge with the Controller a declaration attested by a Justice of the Peace stating the total quantity of wine (Imperial gallons) made by him in the previous year.

119. (1) No wine made under this Act shall exceed a strength of forty per centum of proof spirit, or be so fortified as to exceed that strength.

(2) Any wine containing more than forty per centum of proof spirit shall be liable to the Colonial spirit duty.

(3) No wine shall be so fortified elsewhere than in a warehouse.

(4) No wine shall be fortified with any spirits except spirits of wine, and the quantity of spirit to be added shall not exceed ten per centum of the wine.

120. If at any time the strength of wine cannot be ascertained by the Hydrometer, or in the event of any dispute as to the percentage of proof spirit contained in any wine, the Controller shall have a sample of the wine analysed, and the certificate of the analyst shall be final.

Act 33, 1901.

Analysis when strength cannot be gauged.

PART XII.

Miscellaneous Provisions.

121. (1) Bonds under this Act shall be of the prescribed form, and may be either special or general.

Bonds.

(a) A special bond shall be for a sum sufficient to cover the liability under a particular transaction; and

(b) A general bond shall be for a sum sufficient to cover the maximum liability estimated to accrue in the course of the business.

(2) Every bond shall be for an amount equal to treble the duty for the time being exigible upon the actual or estimated quantity of spirits or wine, and must be executed and lodged with the Controller before any transactions secured thereby can proceed.

122. The Controller may request a new bond to be furnished in the event of any change affecting the validity or security of the bond.

New bonds.

123. Every person making a still shall

(a) Indent on every such still or distilling apparatus its progressive number, capacity in gallons (Imperial measure), and the maker's name;

Duties of keeper of still, marking, keeping book.

(b) Keep in the licensed premises where such still or apparatus is made or kept a book in the form to be prescribed by the Controller;

(c) Enter in the said book the progressive number, and the capacity of each such still or apparatus, the name and residence of the purchaser, and the date when any such still or apparatus is sent away; and

(d) Leave such book open to the inspection of the proper officer, and allow any extracts to be made by him from the book.

124. (1) All premises for which a license is granted shall be under the supervision of the Controller.

Licensed premises to be under Controller's supervision.

(2) For the purpose of taking the stock account or any other account of spirits, only such gauging instruments and hydrometer shall be used as may be supplied or approved by the Controller, and if a licensed person, or any person in his employ, shall

Act 33, 1901. interfere with or wilfully injure any gauging instruments, hydrometers, locks or other articles used by or under the authority of the Controller, such licensed person shall defray the cost of all repairs, and shall be liable to a fine not exceeding Fifty Pounds.

Instruments used in taking accounts.

Forms of entries, &c.

(3) The several forms of entries, notices, declarations, accounts, returns, request notes, permits, certificates, and all books required or directed for use under this Act shall be in such form as the Controller may, from time to time, prescribe and direct, and it shall not be necessary to prove, on the trial of any complaint or information instituted under this Act the particular order or direction in that behalf.

Offence of re-landing and drawing off, using, or altering Colonial spirits or wines shipped for exportation.

125. If any Colonial spirits or wines which have been shipped on board of any vessel for exportation shall be re-landed, otherwise than by the permission of the Collector of Customs, or shall be drawn off, used or altered, either in quantity or quality, or the packages or vessels in which any such spirits or wines are contained shall be interfered with before being delivered at their lawful destination, all such spirits shipped, including those which have been so re-landed, drawn off, used or altered, shall be forfeited, and may be seized by any excise surveyor or officer of Customs, and the master of the ship and any other person concerned in the re-landing of any such spirits or wines, or in the removal, or into whose possession they shall knowingly come, shall be liable to a penalty not exceeding One Hundred Pounds.

Removal of Colonial spirits for exportation overland.

126. Any colonial spirits deposited in a warehouse may be removed from such warehouse for the purpose of being conveyed overland beyond the boundaries of the Colony into any inland Colony or State, by such routes and through such ports of exit as the Governor in Council may from time to time appoint by proclamation, upon payment of an *ad valorem* duty at such rate as the Governor in Council shall from time to time appoint by notice in the *Government Gazette*, and under such conditions and restrictions as shall be prescribed: Provided that this and the succeeding sections shall not be deemed to affect the provisions of any convention or agreement lawfully made with the Government of any such Colony or State.

Duty.

Removal bond.

127. (1) No spirits shall be so removed until a bond shall have been given in such form and for such amount as are prescribed.

Regulations for removal.

(2) The regulations under this Act may also prescribe the conditions to be observed in regard to such removal, and the conditions for the enforcement or cancellation of bonds, and all other matters relative to such removal.

128. If any spirits removed for exportation overland shall not be so exported, or after being exported shall be again brought back into this Colony, such spirits shall be forfeited, and any animals or vehicles of whatever kind or description used in connection with the conveyance of such spirits may be forfeited, and all persons concerned shall be guilty of an offence: Provided that if the owner of any such horses, cattle, conveyances or boats (not being himself a party to such offence) shall prove that they were used without any connivance on his part, they shall not be forfeited.

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Offence of not exporting, or bringing back spirits removed for exportation.

129. (1) Every distiller and rectifier whose premises shall be situated at a distance of a quarter of a mile or upwards from the limits of a borough or statutory township shall within three months after request by the Controller provide a suitable house and stable, with requisite appurtenances, approved by the Controller, for the use of the officer to be placed in charge of the licensed premises.

Provision of house for officer at a distiller's or rectifier's premises.

(2) The house and stables must be conveniently situated, and must not form part of the licensed premises or of the licensee's dwelling house, and the rent charged for them unfurnished must not exceed Thirty-six pounds a year.

130. Any liquid containing methylic alcohol so purified or otherwise prepared by filtration or any other process as to be free wholly or partially from any flavour or odour which would otherwise appertain to it, shall be deemed to be dutiable spirits.

Where methylic flavour is weakened liquid to be deemed dutiable spirits.

131. In the event of the loss of any Colonial spirits by unavoidable accident the Controller may, on proof to his satisfaction of such loss, remit the duty thereon.

Remission of duty in event of loss.

132. All spirits shall be deemed to be of the strength denoted by Sykes's Hydrometer, as approved and supplied by the Controller, and as ascertained by an officer of the Excise or Customs Department in the prescribed manner.

Strength to be as denoted by Sykes's hydrometer.

133. (1) An officer may at any time by day or by night enter any part of the premises of a distiller, rectifier, or compounder, or any house or place whatsoever belonging to, or made use of by him, and search for, examine, gauge, or take an account of the contents of any still or other vessel or utensil therein, and also any spirits or materials that could be used for the manufacture of spirits therein, and to take samples of the spirits on payment of a reasonable price.

Entry by officer on distiller's, rectifier's, or compounder's premises for purposes of search and examination.

(2) If an officer after having demanded admission into such premises and declared his name and business shall not be immediately admitted, it shall be lawful for such officer, or any person acting in his assistance, at all times, to break open by force any of the doors or windows, or break through any of the

Act 33, 1901. walls, as shall be necessary to enter such distillery. If such forcible entry is made at night, the officer shall be accompanied by a constable.

Licensed person to provide ladders, &c., and aid officer.

134. Every person licensed under this Act shall on demand by an officer made on the premises either by day or by night for the purpose of enabling him to carry out any of his duties, provide and place proper ladders and supply sufficient lights, and generally render every aid to such officer.

Breaking up ground, &c., for purpose of search.

135. (1) If any officer shall have reasonable cause to suspect that any distillation or rectification of spirits is being illicitly carried on, he and any person acting in his aid may either by day or by night for the purpose of searching for any pipe, cock, conveyance or utensil, break up the ground in or adjoining or near the premises of a distiller or rectifier or any wall or partition of his premises or other place, and may on finding any pipe or conveyance leading to or from the premises break up or break any ground, house, wall or other place through or into which the pipe or conveyance leads, and may break up or cut away any such pipe or conveyance and turn any such cock and examine whether any such pipe or conveyance conveys or conceals any spirits or any liquor used in the manufacture of spirits.

(2) If any damage is done in the search and such search is unsuccessful, the damage shall be made good at the public expense.

Warrant for search of suspected house or place: entry, search, seizure.

136. (1) If any officer makes oath that there is cause to suspect that any still, vessel, utensil, spirits or materials for the manufacture of spirits is or are unlawfully kept or deposited in any house or place, any Magistrate or Justice of the Peace may issue a warrant authorising the officer and any person acting in his assistance to search the suspected house or place.

(2) Any person so authorised may either by day or by night, but at night only in the presence of an officer of the peace, break open and forcibly enter any such house or place, and seize any still, vessel, utensil, spirits or materials for the manufacture of spirits found therein and either detain the same or remove them to a gaol or other place of safe custody.

(3) Every still, vessel, or utensil, and all spirits and materials so seized shall be absolutely forfeited, and the person in whose custody the same is found shall for every place in which every such still, vessel, or utensil is found be liable to a fine not exceeding Two Hundred Pounds Sterling.

(4) If any damage is done by such forcible entry, and the search is unsuccessful, the damage shall be made good at the public expense.

(5) An officer may seize any such still, vessel, utensil, spirits or materials without a warrant. **Act 33, 1901.**

137. (1) An officer may require a distiller at any time when his still is not at work to cause the water in any worm tub in his distillery to be drawn off and the tub and worm to be cleansed. **Officer may require water to be drawn off, and tub and worm cleansed.**

(2) In such case the water must be kept out of the worm tub for two hours at least, or until the officer has finished his examination of it.

PART XIII.

Regulations, Offences and Legal Proceedings.

138. The Governor in Council may from time to time make and alter regulations for all matters necessary for fully and effectually carrying out the provisions of this Act. **Regulations**

139. Such regulations may define punishments for contraventions thereof not exceeding a fine of Fifty Pounds Sterling, or imprisonment with or without hard labour for a term not exceeding three months. **Punishments for breach of regulations.**

140. The regulations in force at the date of the taking effect of this Act shall, so far as they are consistent with this Act, continue in force until revoked or altered. **Existing regulations.**

141. All regulations framed under this Act shall be published in the *Government Gazette*, and a copy thereof laid before Parliament within fourteen days after the next ensuing session, and a copy of such regulations shall be supplied to every distiller, rectifier, and compounder in the Colony. **Publication of regulations: laying before Parliament.**

142. Every contravention of this Act or of the regulations, or the disobedience or disregard of any duty imposed by this Act or the regulations, shall be an offence. **What acts constitute an offence.**

143. If any person forcibly opposes the execution of any powers given by this Act or the regulations, or rescues or attempts to rescue any person being arrested for an offence or any things seized, or prevents or attempts to prevent such an arrest or seizure he shall be guilty of an offence. **Resisting execution of Act or regulations.**

144. (1) Every offence of which the punishment is not specially defined shall be cognisable in the Court of a Magistrate and shall be punishable by a fine not exceeding One Hundred Pounds Sterling, or in default of payment by imprisonment with or without hard labour for any term not exceeding Six months. **Jurisdiction of Courts, and powers of punishment.**

(2) Every offence for which a punishment is specially defined not exceeding a fine of One Hundred Pounds Sterling or Six

Act 33, 1901. months' imprisonment, with or without forfeiture, shall be cognisable in the Court of a Magistrate.

(3) Nothing in this section shall be deemed to prevent the prosecution of any offence upon indictment in the Supreme Court or a Circuit Court.

(4) Any case in which a penalty of not more than One Hundred Pounds Sterling, with or without forfeiture, is sued for shall be cognisable in the Court of a Magistrate, but without prejudice to the jurisdiction of the Supreme Court.

Jurisdiction as to place.

145. An offence may be charged as having been committed in any place in which or through which the spirits or wines or other things involved have been removed or conveyed.

Jurisdiction of Magistrate's Court on direction or remittal of Attorney-General.

146. When an offence has been committed which would otherwise be beyond the jurisdiction of a Magistrate, the Attorney-General shall have the discretion to direct the case to be tried in the Court of a Magistrate, or he may remit the case for trial in the Magistrate's Court, and thereupon it shall be competent for the Magistrate to try the case and to award the same punishment as is competent to him for other offences which by this Act are cognizable in his Court: Provided that no person shall be deprived of the right given to him by Section 5 of Law 16, 1861, of demanding trial by jury. The jurisdiction of a Magistrate under this section may be exercised by any Magistrate specially appointed for the trial of offences under this Act.

Option of prosecution or civil suit.

147. The enforcement of forfeitures and penalties imposed by this Act or the regulations may be by criminal prosecution or by a civil suit at the instance of the Controller, but without prejudice to the powers of seizure and forfeiture competent to him as herein provided.

Waiver or enforcement of whole or part of penalty or forfeiture.

148. The Controller may with the approval of the Minister waive proceedings against any person liable to a penalty or forfeiture, or may demand, accept, or sue for the whole or any part of such penalty or forfeiture.

Reward to informer.

149. It shall be lawful for the Controller, with the approval of the Minister, to award any special sum not exceeding one-half out of a penalty recovered or out of the proceedings of the sale of any forfeited property to the officer or person by whose means and information the offence has been made known.

Prosecution for other offences not barred.

150. A criminal prosecution or conviction under this Act shall not prejudice any other criminal prosecution to which the offender would but for this Act be liable, provided that he be not twice punished for the same offence.

151. When any offence has been committed it shall be in the discretion of the Court, in addition to any other punishment, to adjudge the forfeiture of the whole or any part of the spirits, wines, or other preparations to which the offence relates or which may have been directly or indirectly involved in any such offence, or which any such offence may have been intended or calculated to conceal, as also of any packages, vessels, fittings, utensils, or other appliances involved.

Act 33, 1901.

Court may adjudge forfeiture.

152. (1) All packages, vessels, vehicles, or animals made use of in the carriage or removal of any things liable to forfeiture may be seized and forfeited.

Forfeiture of vessels, vehicles &c., used for removal.

(2) All forfeitures under this Act shall be removed to the nearest Magistracy, and subsequently to such other place of security or convenience as the Controller may appoint and direct.

Disposal of forfeited articles.

153. All things liable to forfeiture may be seized and secured by an officer, and may on the expiry of one month thereafter be condemned and forfeited by the Controller with the approval of the Minister, without any adjudication of forfeiture by a Court, and may be dealt with and disposed of as herein provided.

Seizure, condemnation, and forfeiture.

154. Where on any indictment or proceeding for the recovery of a penalty or forfeiture under this Act, any question shall arise whether any person held a license under this Act at the time of committing the offence mentioned therein, a certificate purporting to be signed by the Controller that such person did or did not hold such license, shall be sufficient proof of the fact stated in such certificate.

Controller's certificate as to license.

155. (1) All spirits, wines, or other things adjudged or declared to be forfeited shall be sold by public auction.

Sale of forfeited articles.

(2) An officer of the Excise Department may hold such sale without being liable to take out a license for that purpose.

156. No action shall be instituted against any officer of the Excise Department or any person acting as such, for anything done in the exercise of his office, until one month after notice in writing shall have been served upon him by or on behalf of the person who intends to bring such action, in which notice shall be clearly and explicitly contained the cause of the action, and the name and place of abode of the person bringing such action.

Notice of action against officer.

157. In case any suit shall be brought to trial on account of any seizure or anything done under this Act, or any Act relating to the Excise Department, and a judgment shall be found for the plaintiff, and the Court shall certify on the record that there was probable cause of seizure or justification for the thing done,

No costs against officer acting on probable cause: exemption in such case from prosecution.

Act 33, 1901. the plaintiff shall not be entitled to any costs of suit; nor shall the person who made such seizure or did such thing be liable to any criminal prosecution on account of such seizure or thing done.

Limit of damages in such case.

158. In any such action, if the Judge or Court before whom such action shall be tried shall certify upon the record that the defendant in such action acted upon probable cause, then the plaintiff in such action shall not be entitled to more than One Shilling damages, nor to any costs of suit.

Enforcement of bonds.

159. Any bond given under this Act or the regulations shall be a liquid document of debt due by every principal and surety, and proper for granting a provisional sentence in every case in which there shall be shown any breach of the conditions thereof either within the Colony or beyond the boundaries of the Colony, and whether the principal shall be convicted of such breach or not, or whether such principal shall be absent from the Colony or not, and any surety may be sued thereon whether the principal be also sued or not, and the amount may be levied on the goods and chattels of such surety: Provided that not less than three weeks' notice shall be given to a surety before issue of a summons against him.

FIRST SCHEDULE.

Enactments Repealed.

Law or Act.	Title.
Law 14, 1868 ...	To amend the Law as to the distillation of spirituous liquors.
Law 1, 1871 ...	To amend Law No. 14, 1868, known as the Excise Law, 1868.
Law 36, 1874 ...	To amend Law No. 14, 1868, entitled "Law to amend the Law as to the Distillation of Spirituous Liquors."
Law 17, 1878 ...	To amend and explain the meaning of certain words used in the Law 14, 1868, and other laws as to the Distillation of Spirituous Liquors.
Law 24, 1888 ...	To amend and extend in certain respects the Excise Law.
Law 8, 1892 ...	To amend the Law relating to Excise.
Act 11, 1894 ...	To amend the Excise Law Amendment Law, 1892.
Act 32, 1895 ...	To amend the Excise Laws.
Act 48, 1898 ...	To increase the Excise Duty upon spirits distilled in this Colony.

SECOND SCHEDULE.

Stamp Duties on Licenses.

License.	Stamp.		
	£	s.	d.
For a license to keep an unused still	1	0	0
For a license to distil spirits : for each still or distilling apparatus used under the license	5	0	0
For a license to rectify or compound spirits: for every still used	5	0	0
For a license to make stills	1	0	0
For a license to retail methylated spirits :—			
1. In Durban or Pietermaritzburg	2	0	0
2. In any other part of the Colony	1	0	0
For a license to make wine	1	0	0

Provided that if any license is taken out after the 30th June in any year, the license duty shall be two thirds of the foregoing ; but this shall not apply to renewal licenses unless the license previously held had expired one whole year before the 31st day of December preceding the application for the license.

Provided also that no license shall be required in the case of persons making wine solely for domestic use.

THIRD SCHEDULE.

Particulars of entry to be made by distillers, rectifiers and compounders :—

- (a) Name and abode, and the situation of the premises to be entered.
- (b) Every house, room, and place in which any part of the business is to be carried on, or any spirits are to be kept, and the purpose for which each such house, room, or place, is intended to be used.
- (c) A true and particular description of every vessel, utensil, and fitting (other than buckets and similar vessels) intended to be used on the premises for the purpose of the business.
- (d) The particular purpose for which each such vessel and utensil is intended to be used.
- (e) Either the number of gallons which every still with its head is capable of containing, or the number of gallons of wash per hour the still is capable of distilling, and the number of gallons of wash which each wash vat is capable of holding.

Act 33, 1901.

FOURTH SCHEDULE.

First Part.

1. Every distiller shall cause to be legibly painted with oil colour, and shall keep so painted, in letters and figures not less than two inches in height, on some conspicuous part of every vessel or utensil intended to be used by him in his business, and of the outside door of every room or place wherein any part of his business is to be carried on, or any spirits are to be kept, the name of the vessel, utensil, room, or place respectively, according to the purpose for which it is intended.

2. Where more than one vessel, utensil, room, or place is to be used for the same purpose, all such vessels, utensils, rooms, or places must be marked by progressive numbers.

Second Part.

1. Every pipe used by the distiller must, unless used exclusively for the discharge of water and spent wash, be so fixed and placed as to be capable of being examined for the whole of its length.

2. The pipes must be painted and kept painted, as follows :—
 If for the conveyance of
 Wort or wash—red.
 Low wines or feints—blue.
 Spirits—black.
 Water—white.

3. Every cock and valve kept or used by the distiller must be constructed in the prescribed or approved manner.

Third Part.

1. Every distiller shall, at his own expense, and to the satisfaction of the Controller, provide, place, affix, and maintain each vessel, utensil, and fitting allowed or required by the Act.

2. He must, to the satisfaction of the Controller, place and keep each vessel and utensil on his premises in a convenient situation, and so as to be easy of access to the officer.

Fourth Part.

1. At or near the top of every entered fixed vat or butt for storing or keeping spirits on the premises of a distiller, there must be a dipping hole at which an officer may conveniently take his dip or gauge of the contents of the vessel.

2. A metal plate must be fixed at the dipping hole to secure it from being worn or altered.

3. Every receiver and charger must have a sufficient cover with a dipping hole cut in it of the prescribed form and size. **Act 33, 1901**

4. Each dipping hole in a spirit receiver, low wines or feints receiver or charger, or vat, or butt, must be secured and kept secured to the satisfaction of the Controller.

5. No alteration must be made in the dipping hole or level of any receiver, vessel, or utensil, without permission of the Controller after due notice given him in writing.

Fifth Part.

1. Proper fastenings must be provided for locking and securing, to the satisfaction of the Controller, the head of every low wines still, and the furnace door or steam valve thereof, and all apparatus used in connection therewith.

2. A still and its worm may have an air valve or conductor approved by the Controller.

3. A spent lees receiver must be attached to the discharging cock of every low wines still, constructed, fixed, and provided with fastenings to the satisfaction of the Controller.

4. Except as permitted or required by this Act there must be no pipe leading directly or indirectly to or from a still, and no opening into or out of a still or worm of a still.

Sixth Part.

1. All wash must be fermented in the entered fermenting vats, and thence conveyed into the still for distillation.

2. All low wines, feints, and spirits running from the worm of the still must run thence directly into the safe at the end of the worm.

3. All low wines must be conveyed directly from the safe into the low wines receiver, and thence directly into the low wines and feints charger, and thence directly into the still for re-distillation.

4. All spirits must be conveyed directly from the safe into the feints receiver or spirit receiver.

5. All spirits conveyed into the feints receiver must be conveyed thence directly into the low wines and feints charger, and thence directly into the still for re-distillation.

6. No spirits conveyed into the spirits receiver may be re-distilled without permission of the Controller, or may be removed therefrom except into butts or casks for removal into the distiller's spirit store, or into an approved vat for methylation.

Act 33, 1901.

7. All spirits distilled in the distillery must, after the proper officer has taken an account of their quantity and strength, be forthwith conveyed through the discharging cock into butts, casks, or a vat for methylation.

Seventh Part.

Every low wines and feints charger, low wines receiver, feints receiver, spirit receiver, vat or butt, and spent lees receiver must be a close covered vessel, and, except as provided for in this Act, must not have any opening or communication with any other vessel or utensil.

FIFTH SCHEDULE.

(1) Scale of allowances for deficiencies arising from natural causes, as undermentioned :—

	For periods not exceeding	Rate per cent.
(2) Low wines, feints, or spirits redistilled at a distillery	1 month	5
Spirits stored in a distillery store	1 „	2
„ „ „ „ „ „	2 months	3
„ „ „ „ „ „	6 „	4
„ „ „ „ „ „	1 year	5
„ „ bonded warehouse	1 month	2
„ „ „ „ „ „	2 months	3
„ „ „ „ „ „	6 „	4
„ „ „ „ „ „	1 year	5
„ „ „ „ „ „	2 years	6
„ „ „ „ „ „	3 „	7
„ racked „ „ „ „ „		1
„ bottled „ „ „ „ „		2
„ on transit from distillery to warehouse		2
„ on transit from one warehouse to another warehouse		2
„ on transit exported overberg		2
Wines stored in a bonded warehouse, on the liquid quantity	1 year	2
And for every year or part of a year, after the first year		1

(3) No allowance shall be made on spirits after one whole year in a spirit store nor after three years in a warehouse, unless kept for maturing purposes as prescribed by this Act.

(4) The foregoing allowances are only to be granted when necessary, and must not be granted where the actual deficiency is less than the scale of allowances. **Act 33, 1901.**

(5) The Controller is authorised, if he is satisfied that the deficiency in any package or vessel resulted in whole or in part from fraudulent abstraction of spirits, or wilful tampering with the package or vessel, to charge duty on the whole quantity at proof deficient, or upon such quantity as he shall think fit.

SIXTH SCHEDULE.

(1) Particulars to be marked on both the outside ends of packages or vessels containing saleable spirits by excise traders (a).

- (a) The name of distiller, rectifier or compounder.
- (b) Distinguishing letter of the distillery, rectifying or compounding premises.
- (c) Progressive number of each package or vessel, progressive number to commence with number one on and after 1st January, annually, together with the year or two last figures of the year in which filled, thus $\frac{16}{1901}$ or $\frac{16}{01}$.
- (d) Capacity and content in liquid gallons, and where the total number of gallons capacity is less than eighty, the one-half gallon of actual capacity and content above the number of entire gallons.
- (e) Strength of the spirits.

(2) All such particulars shall be legibly painted and kept so painted thereon in letters or figures of not less than one inch in height.

(3) Excise traders shall conform to the directions of the Controller in any particulars relative to the above.

SEVENTH SCHEDULE.

(1) Particulars to be specified in request note for a permit and to be entered on the permit.

- (a) Quantity and strength of spirits for which permit is required.
- (b) Packages or vessels in which spirits are contained.
- (c) From whom and whence the spirits are to be sent.
- (d) To whom and whither the spirits are to be sent.
- (e) Mode of conveyance.

(a) See Act No. 25, 1905, s. 28.

Act 33, 1901.

- (2) Particulars to be specified in certificate.
- (a) Quantity, denomination and strength of spirits sent out or delivered.
 - (b) Number of packages or vessels in which spirits are contained.
 - (c) Day and hour of sending out or delivery.
 - (d) From whom and whence sent or delivered.
 - (e) To whom and whither sent or delivered.
 - (f) Mode of conveyance.
- (3) Particulars to be entered in stock book.

On Receipt.

- (a) Quantity, denomination, strength and gallons computed at proof of spirits received.
- (b) Date of receipt.
- (c) From whom and whence received.

On Sending out or Delivery.

- (a) Quantity, denomination, strength and gallons computed at proof of spirits sent out or delivered.
- (b) Date of sending out or delivery.
- (c) To whom or whither sent or delivered.

Act No. 37, 1901.

“To impose an Excise Duty upon Beer brewed in the Colony, and a Customs Duty upon Beer imported from countries belonging to the Customs Union.”

[26th August, 1901.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. In this Act, “Beer” means and includes ale, porter, spruce beer, lager beer, black beer, and every other spirituous liquor coming within the ordinary appellation of beer, and containing more than two per cent of spirit.

“Gallon” means a liquid gallon, Imperial measure.

“Brewer” means any person carrying on the business of brewing beer, and includes an individual or a company of any description.

REVENUE—III. EXCISE.

The expression “sent out from a brewery,” or any like expression in reference to beer includes all beer made and issued from the brewery, either for consumption in the Colony, or for export by land or sea, and refers to nett quantities only, and not to any beer which may have been issued and subsequently returned. **Act 37, 1901.**

“Regulations” means the regulations under this Act, and “prescribed” means prescribed by such regulations.

Any reference in this Act to the accounts and books of the business of a brewer shall refer to the accounts and books relating to the brewing of beer or the sale or sending out of beer, and not to accounts and books kept for other purposes.

2. Every brewer shall take out an annual license, according to the provisions of the License and Stamp Act, 1898. The duty on such license shall be One Pound Sterling, and no other license under the said Act, or under any Act relating to the sale of intoxicating liquor, shall be payable in respect of the sale of beer by a brewer in the ordinary course of his trade. **Annual license of brewer.**

3. A duty of twopence (*a*) shall be levied and paid for and upon every gallon of beer sent out from a brewery in this Colony, save as is hereinafter excepted. **Excise duty upon beer.**

4. The duty on beer shall be paid quarterly for the periods ending 31st March, 30th June, 30th September, and 31st December: Provided that this Act shall not be deemed to require the payment of duty upon any beer sent out from a brewery before the first day of the quarter next following the date of the commencement of this Act. **Duty payable quarterly.**

5. Every brewer shall within four weeks after the close of each quarter furnish to the Controller of Excise a declaration, made in writing before a Justice of the Peace by himself or by the manager of a brewery, setting forth in such form as may be prescribed the nett total number of gallons of beer sent out from the brewery during the quarter then ended. **Quarterly declaration of output.**

Such declaration shall be accompanied by a certificate by an auditor approved by the Controller of Excise, that he has examined the accounts and books of the brewer, and that the same appear to have been properly kept, and to show the nett quantity of beer sent out, and that the number of gallons shown in the declaration is correct according to the said accounts.

6. The brewer shall at the same time pay to the Controller of Excise the duty upon the quantity of beer shown in the declaration. **Payment of duty.**

(a) Increased to fourpence by Act No. 35, 1903, post.

Act 37, 1901.

Remedy for delay, or failure to furnish declaration and pay duty.

7. If such declaration and certificate be not furnished and the duty paid as required, it shall be lawful for the Controller of Excise to take any steps he may think proper for ascertaining the quantity of beer sent out during the quarter, and to charge the expenses thereof to the brewer, and the brewer shall also be liable to a penalty not exceeding Fifty Pounds Sterling for every week's delay in furnishing such declaration and certificate and paying such duty.

Examination of books and accounts.

8. It shall at all times be lawful for the Controller of Excise to cause the accounts and books of the business of a brewer to be examined by any person whom he may employ for that purpose.

Improper keeping of books and accounts.

If from the report of any such person it shall appear that the accounts and books of the business are not properly kept, or do not properly reflect the quantities of beer sent out, the Controller may call upon the brewer for an explanation, and if he is not satisfied he may refer the matter to the decision of a competent person not in the employ of the Government, whose decision shall be binding upon the brewer, and the brewer shall take all necessary steps to have his books properly kept, and make good any defect pointed out by the examiner.

Suspension of license for neglect to remedy defective book-keeping.

9. If a brewer neglects or refuses to comply with the foregoing provisions of this Act, or with any lawful requirement of the Controller of Excise, and continues so to do after one month's notice in writing by the Controller calling upon him to render compliance, the Controller may, by an order in writing, suspend the brewer's license until the requirement of the notice is complied with.

During such suspension the brewer shall not carry on any brewing under pain of a penalty of Fifty Pounds for every day on which he shall do so.

False returns; fraudulent practices.

10. If any return shall be falsely made, or if any fraud shall be practised in order to avoid the payment of duty, or if the books or accounts shall in any way be falsely kept or falsified, the brewer, together with all other persons concerned, shall be liable to be prosecuted for fraud, and the brewer shall pay thrice the duty on any quantity of beer sent out in excess of that shown in the quarterly return.

Entry and inspection of premises.

11. It shall at all times be lawful for the Controller of Excise, or any officer deputed by him, to enter any part of the premises of a brewery and make any inspection he may think proper, and the brewer shall be obliged to give him every facility for the purpose, and give him access to the books and accounts of the business.

12. Beer brewed in this Colony and exported by sea or overland under such conditions as may be prescribed shall be exempt from duty. **Act 37, 1901.**

Export and exemption from duty.

The regulations may also prescribe the form of proof of claims for exemption from duty, and the mode of passing and certifying claims.

The amounts so certified may be deducted from the next ensuing quarterly payment.

13. If any such beer is returned into this Colony after being exported the ordinary duty under the Customs tariff applicable to foreign beer shall be paid thereon, and if any such beer shall be brought back into this Colony without the payment of such duty it shall be forfeited, together with all animals or vehicles used in connection with the conveyance, and all persons concerned shall be guilty of an offence, and shall be liable upon conviction in a Magistrate's Court to a fine not exceeding One Hundred Pounds Sterling, or to imprisonment, with or without hard labour, for any term not exceeding six months: Provided that if the owner of any such animals or vehicles (not being himself a party to such offence), shall prove that they were used without any connivance on his part, they shall not be forfeited.

Beer returned after being exported.

This clause shall not apply to *bona fide* returns to the brewery, provided that any prescribed formalities be complied with.

14. Upon the certificate of the senior commissariat officer that any beer brewed within the Colony has been purchased for the use of His Majesty's land or sea Forces, and that any duty thereon would be borne directly by the Imperial Treasury, the Controller of Excise shall refund to the officer representing His Majesty's Secretary of State for War the amount of duty paid upon such beer.

Refund of duty on beer bought for use of H.M.'s forces.

Every such certificate shall contain a statement showing the date of the purchase, the quantity of the beer, and the name of the person or firm from whom it was purchased, and such other and further particulars as the Controller of Excise may require.

15. The Governor in Council may make regulations for all the purposes of this Act, and may by such regulations prescribe penalties not exceeding a fine of Fifty Pounds Sterling for any breach thereof.

Regulations.

Such penalties shall be recoverable in the Courts of Magistrates upon prosecution, or by civil suit at the instance of the Controller of Excise.

16. A customs duty of twopence (a) per gallon shall be levied

Customs duty on beer brewed within Customs Union.

(a) Increased to fourpence by Act No. 35, 1903, post.

Act 37, 1901. upon all beer brewed in any Colony or State which is a party to a Customs Union with Natal, and imported into Natal by land or sea.

Commence-
ment.

17. This Act shall not take effect unless and until the Governor shall notify by Proclamation that a protocol has been executed in terms of the South African Customs Union Convention of 1898 on behalf of all the Colonies and Possessions, being parties to the Union, agreeing to the imposition of such a customs duty as is provided for in this Act upon beer brewed within the Union and imported into Natal; and thereafter this Act shall take effect upon such date as shall be appointed by the same or any other Proclamation.

Act No. 35, 1903.

“To amend Act No. 37, 1901, entitled Act ‘To impose an Excise Duty upon Beer brewed in the Colony, and a Customs Duty upon Beer imported from countries belonging to the Customs Union.’ ”

[1st October, 1903.]

BE IT ENACTED by the King’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Duty on beer
brewed in
Natal in-
creased to 4d.
per gallon.

1. From and after the first day of October, 1903, the duty of twopence per gallon of beer sent out from a brewery in this Colony, imposed by Section 3 of Act No. 37, 1901, shall be increased to fourpence per gallon.

Duty on beer
brewed in
Customs
Union Colony
increased to
4d.

2. From and after the first day of October, 1903, the Customs duty of twopence per gallon, imposed by Section 16 of Act No. 37, 1901, upon beer brewed in a Colony or State which is a party to the Customs Union, shall be increased to fourpence per gallon.

Joint con-
struction of
Acts.

3. This Act shall be read and construed jointly with the said Act No. 37, 1901, as if the two formed one Act.

Act No. 25, 1905.

“To amend the Excise Act, 1901.”

[12th August, 1905.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. This Act may be cited, together with the Excise Act, 1901, as the Excise Acts, 1901 and 1905. Joint construction of Acts.

The Excise Act, 1901, is in this Act referred to as the principal Act.

2. The definitions of “methylate” and “methylated spirits” in Section 3 of the principal Act are hereby repealed and the following inserted in lieu thereof:— Definitions.

“Methylate” means to mix spirits of wine, under approved regulations, with some substance in such manner and quantity as to denaturate or render the spirits unfit for drinking;

“Methylated Spirits” means spirits so mixed to the satisfaction of the Controller.

3. Sub-section (1) of Section 12 of the principal Act is hereby repealed, and the following is enacted in lieu thereof:— Repeal of sub-sec. (1) of Section 12 of principal Act. Regulations may provide for rebate.

The regulations may provide for the rebate of the whole or any part of the duty upon rectified spirits of wine made from spirits distilled in this Colony and used by distillers or rectifiers in the manufacture of perfumery and non-potable articles, or by chemists or druggists in the preparation of medicines, perfumery and non-potable articles or in museums approved by the Minister for the preservation of scientific and other specimens.

4. The words “one mile” shall be substituted for “four miles” wherever occurring in Section 29 of the principal Act. Substitution.

For the purposes of the said Section the words “dealer” and “retailer” shall mean a person selling wines or spirits in quantities of less than 2 gallons if in cask or drums, or than twelve reputed quart or twenty-four reputed pint bottles, if in bottle. Definitions of “Dealer” and “Retailer.”

A distiller or rectifier shall not sell spirits except in whole and complete packages, either casks, drums or cases. If in casks or drums, such casks or drums shall be of not less capacity than ten gallons; if in cases the bottles shall be properly packed and each case shall contain not less than $1\frac{90}{100}$ gallons. Conditions of sale of Spirits.

Act 25, 1905.Penalty for
contravention.

Any person contravening this provision shall be liable to the penalty mentioned in sub-section 3 of the said 29th Section.

Amendment of
sub-sec. (3) of
Section 46 of
principal Act.

5. The words "for a period of not less than twelve months after it is filled up," occurring in sub-section (3) of Section 46 of the principal Act shall be repealed.

Repeal of
Section 47.

6. Section 47 of the principal Act is hereby repealed and the following is enacted in lieu thereof :—

The proper officer shall, on the last day of the months of March, June, September and December of every year, or at such other time as he shall see fit or be directed by the Controller, take a full account of the stock of every description of spirits in a distillery computed at proof.

Duty may be
remitted.

7. If any Colonial spirits are destroyed or lost by unavoidable accident or by leakage or fire whilst in a distillery or approved store or warehouse, or whilst being removed under bond, or whilst being received into such distillery, store or warehouse, or being delivered therefrom upon proper entry or clearance, the Controller may on satisfactory proof thereof, and upon being satisfied that every reasonable effort was made to prevent the destruction or loss, remit the duties upon such spirits, or return them if already paid.

No allowance shall be made for deficiencies occurring in any other way, except as prescribed in the fifth Schedule of the principal Act, and the duty upon any such deficiency in excess of those allowed by the said Schedule shall be paid forthwith.

Repeal of con-
flicting parts
of principal
Act.

In so far as Sections 47 and 52 and any other parts of the principal Act are in conflict with the foregoing provision they are to that extent repealed.

Repeal and re-
enactment of
Subsection (1)
of Section 48.

8. Subsection (1) of Section 48 of the principal Act is hereby repealed, and the following is enacted in lieu thereof :—

Quarterly
Returns by
Distiller.

Every distiller shall, not later than the fourth day of January, April, July, and October in each year, deliver to the proper officer for the information of the Controller, a true return in writing in the prescribed form signed by him, or by the person in charge of the distillery on his behalf, of the stock of spirits on hand on the first day of the preceding quarter, the gallons of wash made and distilled, the gallons at proof of spirits made, removed and whither removed during the quarter, and the stock of spirits on hand on the last day of the quarter.

Repeal and re-
enactment of
Section 50.

9. Section 50 of the principal Act is hereby repealed and the following is enacted in lieu thereof :—

No spirits shall be received into a distiller's warehouse between the hours of 5 p.m. and 8 a.m., nor in less quantity than

10 gallons in casks or vessels marked as prescribed by the 6th Schedule. **Act 25, 1905.**

10. The proprietor of spirits warehoused in a distiller's or other approved warehouse may, in accordance with the regulations, vat, blend, rack, reduce, or bottle them in the warehouse. **Vatting, &c., of Spirits.**

11. The word "store" occurring in Sections 49 and 52 of the principal Act shall be interpreted to mean distiller's warehouse. **Interpretation of "Store."**

12. Notwithstanding anything to the contrary contained in Part VII of the principal Act it shall be lawful, under such regulations as may be made in that behalf :— **Rights of Rectifier and Distiller.**

- (a) For a Rectifier to rectify spirits under bond ;
- (b) For a Distiller to rectify and compound upon his premises spirits distilled by him on such premises ;
- (c) For the distilling and rectifying to be performed in one continuous operation.

13. All that part of Section 77 of the principal Act, from the words " unless such officer neglects " to the end of the Section, is hereby repealed. **Repeal of part of Section 77.**

14. Subsection (4) of Section 79 of the principal Act shall not apply to a Rectifier using only duty-paid spirits. **Duty-paid spirits.**

15. The words " four gallons " occurring in Subsection (1) of Section 80 are hereby repealed, and the words " two gallons " are substituted therefor. **Substitution in sub-sec. (1) of Section 80.**

16. Section 82 of the principal Act is hereby repealed, and the following is enacted in lieu thereof :— **Repeal and re-enactment of Section 82.**

A Rectifier or Compounder lawfully removing any rectified spirits, Colonial compounds or liqueurs produced from Colonial duty-paid spirits into a warehouse shall be entitled to a drawback of the duties calculated on the spirits warehoused.

17. Section 86 of the principal Act is hereby repealed, and the following is enacted in lieu thereof :— **Repeal and re-enactment of Section 86.**

(1) No dealer shall alter, or allow to be altered, the condition or character of any spirits or wines whilst on his licensed premises, or in his possession, otherwise than by the addition of water, which must not reduce the spirits below the strength mentioned in this Section ; or receive, have or keep, or allow to be received, had, or kept on his licensed premises any mixture, ingredient or material whatever, other than water, which could be used for flavouring or altering the condition or character of spirits or wines. **Adulteration not allowed.**

(2) No dealer or retailer or person offering or exposing for sale spirits and wines, Colonial or imported, shall label or have labels on such spirits and wines in such a way and with such **Labels.**

Act 25, 1905. words as shall be likely to deceive any person as to the true description of such spirits and wines.

Every such label shall clearly state the name of the country of origin of such spirits or wines.

Strength of spirits.

(3) No dealer shall have in possession, sell, send out, or deliver any spirits of less strength according to Sykes's hydrometer than than thirty per centum below proof.

Repeal and re-enactment of Section 88.

18. Section 88 of the principal Act is hereby repealed, and the following is substituted therefor :—

Mixing.

No substance whatever shall be mixed with or added to any spirits in a distillery or warehouse, except in accordance with the regulations.

Penalty for contravention.

Any contravention of this Section shall, in addition to any pecuniary penalty on the person concerned, render the spirits to which any substance has been unlawfully added liable to forfeiture.

Repeal and re-enactment of Section 90.

19. Section 90 of the principal Act is hereby repealed, and the following is enacted in lieu thereof :—

Where methylation may take place.

Spirits may be methylated in the following places and no others :—

(a) By a Distiller in such part of his licensed premises as shall be approved by the Controller.

(b) By a Rectifier in a warehouse approved by the Controller.

Section 91 repealed.

20. Section 91 of the principal Act is hereby repealed.

Repeal and re-enactment of sub-sec. (1) of Section 93.

21. Subsection (1) of Section 93 of the principal Act is hereby repealed and the following is enacted in lieu thereof :—

The substance or substances used in methylating shall be approved by the Controller and shall be in such proportions to the spirits as may be prescribed by the regulations.

Repeal and re-enactment of Section 94.

22. Section 94 of the principal Act is hereby repealed and the following is enacted in lieu thereof :—

A stock account of methylated spirits, computed at proof, shall be kept by the methylator in the form prescribed by the regulations.

Repeal and re-enactment of sub-sec. (b) of Section 96.

23. Sub-section (b) of Section 96 of the principal Act is hereby repealed, and the following is substituted in lieu thereof :—

(b) A person specially authorised by the Controller under the regulations.

24. Section 97 of the principal Act is hereby repealed.

Repeal and re-enactment of Section 98.

25. Section 98 of the principal Act is hereby repealed, and the following is enacted in lieu thereof :—

A methylator shall only supply methylated spirits in packages containing not less than two gallons. **Act 25, 1905.**

26. Subsections (d) and (e) of Section 101 of the principal Act are hereby repealed, and the following substituted in lieu thereof:— **Repeal of sub-secs. (d) and (e) of Section 101.**
Substitution.

(d) Shall not receive methylated spirits except from a methylator or from a warehouse, and in quantities not less than ten gallons or from a methylated spirit retailer in quantities not exceeding five gallons in any one day;

(e) Shall not supply to or for the use of any one person more than five gallons of methylated spirits in any one day.

27. The words “five gallons” shall be substituted for the words “two gallons” wherever occurring in Sections 102 and 103 of the principal Act. **Substitution in Sections 102 and 103.**

28. Clause (1) of the sixth Schedule of the principal Act shall apply only to casks and drums; and as regards cases it shall be sufficient to mark on one side only:— **Casks and Drums.**
Marking of Cases.

(a) The name of the distiller, rectifier or compounder;

(b) The progressive number of each case as prescribed in Sub-section (c) of the said Schedule;

(c) The number of bottles: as for example:—12 repton. quarts, or 24 repton. pints.

Act No. 10, 1906.

“To amend the Excise Acts.”

[29th June, 1906.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. Section 11 of the Excise Act, 1901, and Act No. 34, 1903, are hereby repealed, and the following is enacted in lieu thereof:— **Repeals.**

Subject to the provisions of the Excise Act, 1901, and of any subsequent amending Acts, there shall be levied and paid upon every gallon of spirits made in this Colony, not exceeding the strength of proof by Sykes's Hydrometer, a duty of nine shillings sterling, and so on in proportion for any greater or less strength, provided that the duty shall not in any case be less than seven shillings and sixpence per Imperial gallon.

All such duties shall be paid to the Controller of Excise.

Act No. 21, 1904.

“ To establish a Contingencies Fund.”

[23rd July, 1904.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Short title.

1. This Act may be cited as the “ Contingencies Fund Act, 1904.”

Objects.

2. To enable the Executive Government from time to time to incur expenditure on such unforeseen services as cannot be postponed without serious injury to the public interest until adequate provision can be made therefor by Parliament, a Fund shall be created, entitled the “ Contingencies Fund,” to which temporary advances to meet such expenditure (duly certified by the Auditor-General) may be charged on warrants of the Governor.

Capital,
£200,000.

3. The account of the Contingencies Fund shall be kept in the books of the Treasurer. The permanent capital of the Fund shall consist of a sum of Two Hundred Thousand Pounds Sterling, which sum shall be transferred to the account of the Fund from the general Revenue of the Colony immediately after the passing of this Act.

Temporary
increase of
capital for
railway
purposes.

4. The capital of the Fund may from time to time be temporarily increased by such amount, not exceeding the amount of the accrued excess of Railway Revenue, as may be necessary to meet any insufficiency of the Votes for the working and maintenance of railways to cover expenditure properly chargeable as ordinary working and maintenance services. The Treasurer shall have power to advance from the general Revenue of the Colony such sums as may be necessary to provide the increased capital, provided that all such advances from the general Revenue shall be repaid thereto from the Fund within the same financial year.

Definition.

The expression “ accrued excess of Railway Revenue ” in this Section shall be taken to mean the excess, if any, of the Railway Revenue collected from the beginning of any financial year to the end of the month next preceding that in which the increase is made over the estimated Railway Revenue for the same period, calculated *pro rata* upon the estimates for the financial year presented by the Governor to Parliament.

5. The amount of outstanding advances from the Contingencies Fund shall at no time in the aggregate exceed the amount of the capital of the Fund as defined in this Act, and all such advances as may remain outstanding at the close of the financial year shall be repaid out of moneys to be voted by Parliament. **Act 21, 1904.**
Outstanding advances.

6. The account of the Fund for each financial year shall be audited by the Auditor-General and presented to Parliament. Auditing of accounts.

7. Nothing in this Act shall affect the power of the Treasurer to make advances out of the general Revenue of the Colony on behalf of other Governments on current account, provided that such advances are not for services finally chargeable to funds provided by the Parliament of this Colony. Power of Treasurer to make advances

8. The Governor in Council may from time to time make regulations for carrying out the purposes of this Act. Regulations.

RHODESIAN REDWATER.

[See “ANIMALS (DISEASES).”]

RIFLE ASSOCIATIONS.

RIFLE ASSOCIATIONS.

Act No. 5, 1906.

“To amend Law No. 19, 1862, entitled Law ‘To promote the establishment of Rifle Associations for the defence of this Colony.’”

[22nd June, 1906.]

BE IT ENACTED by the King’s Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. The words “by proclamation” occurring in Section 3 of Law No. 19, 1862, are hereby repealed.

RINDERPEST.

[See “ANIMALS (DISEASES).”]

ROAD BOARDS.

The Road Boards Act, 1901.

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Act No. 35, 1901.

“To repeal and re-enact with amendments the Road Board Law, 1888.”

[26th August, 1901.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Short Title
Repeal.

1. This Act may be cited as “The Road Boards Act, 1901.”
2. The Road Board Law, 1888, shall be repealed, but such repeal shall be without prejudice to anything done or any appointment made, or any right acquired or liability incurred thereunder.

PART I.

Constitution of Road Boards.

Road Boards,

3. A Road Board may be constituted in and for every Magisterial Division of the Colony, except the City Division of Pietermaritzburg, and the Division of Durban, and any Division confined to a statutory borough or township.

Creation of
new divisions.

4. When any new Magisterial division (other than as above excepted) is created, the existing Road Boards of the several divisions from which the new division is formed shall be dissolved and new Boards may be constituted for the several divisions.

Existing Road
Boards.

5. The members of any Road Board in existence at the date of the passing of this Act shall remain in office till the Thirty-first Day of December, 1901, under the same terms and conditions and with the same powers and duties, both individually and as a Board, as if they had been originally appointed under this Act.

Constitution
of Board.

6. Every Road Board shall consist of the Magistrate or Acting Magistrate of the Division, and of five other members elected or appointed as hereinafter provided.

ROAD BOARDS.

The Clerk of the Court of the Magistrate shall be *ex officio* the Clerk to the Road Board, but in his absence the Magistrate may appoint a clerk for the time being.

Act 35, 1901.
Clerk.

7. The first general election under this Act shall be held in each Division on a date in December, 1901, to be fixed by the Magistrate, not being later than the 14th day of the month.

First general election.

8. The whole of the elected or appointed members of every Road Board shall retire at the end of every third year, dating in all cases from the 31st day of December, 1901, and a fresh election shall be held: Provided that nothing in this section contained shall prevent the re-election of a retiring member.

Duration of Board.

If the hearing of any case before a Board has commenced the Board shall continue to hold office for the purpose of concluding the case, notwithstanding that the Board would otherwise have expired under the provisions of this section or that a new Board may have been elected or appointed.

Completion of cases begun before expiry of Board.

9. The ordinary triennial election of members of a Road Board shall be on a convenient day to be fixed by the Magistrate, not being later than the 14th day of December in the year when the election shall fall due, unless the election be delayed by some unforeseen cause.

Date of triennial election.

10. No person shall be capable of being elected or allowed to vote for a member of a Road Board in any Division unless his name shall be on the Voters' Roll for that Division, and unless he shall own landed property in the Division other than Town lands or the erven of any town or village (a).

Qualification of members and voters.

11. The mode of nominating candidates and holding an election shall be as detailed in Schedule No. 1 of this Act.

Nomination of candidates and mode of election.

12. If at the time appointed for an election no election shall take place, or if less than five candidates shall be elected, the Governor may appoint so many duly qualified persons to be members of the Board as are required to fully constitute the Road Board.

Appointment of members when insufficient number elected.

13. Any member of a Road Board may resign office upon giving at least one month's previous notice in writing to the Clerk of the Board of his intention so to resign.

Resignation.

If any member of a Road Board shall cease to hold the qualification defined by Section 10, or shall fail to attend two consecutive meetings of the Board, or shall become an insolvent, or take advantage of any act for the relief of insolvent debtors, or shall be a public defaulter, or be attainted of treason, or be

Vacation of seat.

(a) This is substantially a reproduction of sec. 6 of the repealed Law, as to which see *Holley v. New Hanover Road Board*, 16 N.L.R., 216.

Act 35, 1901. sentenced to imprisonment for any infamous crime, or shall become of unsound mind, his seat shall become vacant.

Proceedings
not invalidated
by occurrence
of vacancy.

No proceedings of a Road Board shall be invalidated or be illegal in consequence of a vacancy or vacancies in the said Board, provided that the quorum of members by this Act required be present at and take part in all meetings of such Board.

Election or
appointment
to vacant
seats.

14. (1) If any vacancy or vacancies shall occur in any Board by the death, resignation, or disqualification of a member the Magistrate shall affix to the notice board at his office, a notice in the Form No. 1 of Schedule No. 3, inviting requisitions for candidates for election.

(2) Such notice shall appoint a day, not being less than three weeks from the date of the notice, on or before which requisitions, duly made and accepted as provided by this Act, must be lodged with him. The notice shall be published at least twice in the *Government Gazette*, and in each of two newspapers circulating in the Division.

(3) If by midday on the appointed day requisitions shall have been so lodged with the Magistrate for no more candidates than there are vacancies, or for a less number, such candidates shall be deemed to be elected, and the Magistrate shall make a return accordingly.

(4) If the number of candidates exceeds that of the vacancies the Magistrate shall issue a notice in the form No. 2 of Schedule No. 3, appointing a day for a poll, and thereafter all proceedings shall be taken for an election in the same manner, *mutatis mutandis*, as is provided in Schedule No. 1.

(5) If no candidate, or fewer candidates than the number required, shall be elected, the Governor may appoint so many duly qualified persons to be members of the Board as are required to fully constitute the Board.

(6) Any member elected or appointed under this section shall hold office until the next ordinary election, and no longer.

Appointments
in place of
member
absent, &c.

15. If any member of a Board is prevented by sickness or other cause from attending any meeting of the Board, or if any person is disqualified from sitting by reason of having an interest in the dispute to be tried, the Governor may appoint any duly qualified person to act in his stead for the time being.

Expenses of
election.

16. The expenses incurred in and about every election of members of a Board shall be paid out of the general revenue of the Colony.

PART II.

Act 35, 1901.

Jurisdiction and Powers of Road Boards.

17. The expression "by-road" as used in this Act means:— Meaning of
"by-road."

- (a) A road or right-of-way, whether public or private, which has been established, or the right of which has been created, by prescription or by deed, or in any other valid manner.
- (b) A way of necessity, including a reasonably necessary means of access to a public road or a railway station stopping place, or siding (a).
- (c) Foot or bridle path.

From the above definition there shall be excluded all roads maintained by Government, and also any road or right-of-way or way of necessity, in so far as it lies within the limits of any borough or township, or of the commonage or other public lands attached to a village.

18. When any road is taken over and maintained by the Government, the Minister of Lands and Works shall publish a notice thereof in the *Government Gazette*, and such road shall thereupon be excluded from the operation of this Act unless and until the Minister shall by a like notice declare that the road has ceased to be maintained by the Government. Exclusion of
road taken
over by
Government.

19. A Road Board shall have power to hear and decide all cases of dispute or questions referring to the opening of by-roads or the keeping open of existing by-roads, the closing of such by-roads as may be no longer needed (b), and the making of alterations in by-roads. Jurisdiction of
Board: open-
ing, closing,
or alteration
of by-road.

When the opening of a by-road as a way of necessity (c) is ordered, the Road Board may award to the persons through whose land the by-road passes such compensation as may be fair and reasonable. Compensation
for way of
necessity.

20. A Board shall also have power to hear and decide any disputes with reference to the erection of gates upon by-roads, and the character and construction of such gates, subject always to the provisions hereinafter contained, and to adjudge any of the parties to the dispute who may be benefited by such gates to contribute a reasonable share of the cost and upkeep thereof. Gates on by-
roads.

(a) See notes to sec. 19, post.

(b) For definition of the term "no longer needed," as used in the repealed Law, see *Van Rooyen and others v. Van Rooyen*, 17 N.L.R. 361.

(c) As to meaning of "way of necessity," see *Leask v. Pellew*, 11 N.L.R. 74.

Act 35, 1901.Fences along
by-roads.

21. The Road Board shall also have power to permit or order a by-road to be fenced on either or both sides, and to determine the character and construction of such fence, and, when a fence is ordered to be erected, to determine by whom of the parties and in what proportion the cost of erection and up-keep shall be borne.

Maintenance
of by-roads.

22. The Board may also determine, as between the parties to a dispute, by whom and in what proportion the cost of maintaining a by-road shall be borne. Any compensation or payment ordered to be made by the Road Board may be recovered by the issue of a writ as in the case of a judgment of the Magistrates' Courts.

Recovery of
compensation
or other
payment.Direction and
width of by-
road.

23. A Road Board may also define and determine the direction and width of any by-road already existing or hereafter to be opened up or altered under the provisions of this Act: Provided that no by-road shall exceed 30 feet in width: And provided further that no increase shall be made in the width of any such by-road passing through or between any gardens, cultivated land, or orchards, or between buildings or homesteads.

Powers of
Magistrate
pending hear-
ing by Board.

24. Pending the hearing of any question by the Road Board the Magistrate shall have power, on the application of any person interested, and if it shall appear to him necessary, to summarily order the opening of any by-road which may have been stopped, or in which any deviation has been made, or which has been otherwise obstructed, and any person closing up or obstructing such by-road or otherwise acting in disregard of the order shall be guilty of contempt of Court.

Application
for the con-
vening of a
Board.

25. The Magistrate shall be the convener of the Board. In all cases of dispute proper for decision by a Road Board, application in writing shall be made by the person or persons aggrieved to the Magistrate.

Deposit for
expenses.

26. The applicant or applicants shall at the same time deposit such sum of money as the Magistrate may require, not being less than Fifteen Pounds and not exceeding Twenty-five Pounds Sterling, in order to provide for the due payment of the costs of holding any enquiry. Such costs shall not include the costs which by this Act are made payable from funds voted by Parliament.

Convening
Board.

27. The Magistrate shall thereupon call a meeting of the Board and shall notify to the disputants, in writing, the time and place fixed for such meeting.

Notice.

A notice specifying the business to be transacted, and the date and place at which the meeting of the Board will be held,

shall be published for general information, twice in the *Government Gazette* and twice in a newspaper published or circulating in the Division (a). **Act 35, 1901.**

28. Upon the application of any party to a dispute, and upon payment of the usual fees of Court, the Clerk of the Court shall issue the process of the Magistrate's Court for securing the attendance of witnesses at the hearing. Such process shall be served in the same manner and shall have the like effect as a subpoena in a case in the Magistrate's Court. **Subpœna for witnesses.**

29. The Magistrate shall be *ex officio* the Chairman of the Board. **Chairman.**

Four members, exclusive of the Magistrate, shall form a quorum. **Quorum.**

In the absence of the Magistrate, a Chairman shall be elected from among the members present. **Chairman in absence of Magistrate.**

30. Minutes of the proceedings of every meeting of the Board shall be made and recorded by the Clerk, who shall also record the evidence taken. **Minutes, and record of evidence.**

31. The Board shall require every witness to give his evidence upon oath, administered by the Chairman. **Evidence to be on oath.**

32. The Board may impose a fine not exceeding Ten Pounds Sterling upon any witness who shall disobey his subpoena. **Defaulting witnesses.**

Such fine shall be enforced by the process of the Magistrate's Court.

33. The Board may, if they deem it necessary, make a personal inspection of the road or roads in dispute, or may depute a Committee of their own body, not less than two in number, to visit the spot and report to the Board the result of their enquiries (b). **Personal inspection of roads.**

34. The decision of a majority of the members by whom any case is heard shall be deemed to be the decision of the Board. **Decision of Board.**

The Chairman shall have a deliberative vote, and in the event of there being an equality of votes he shall also have a casting vote. **Chairman's votes.**

35. No member of any road Board shall vote upon any **Disqualification of member for interest.**

(a) Under a similar provision in the repealed Law it was held, that where notice of meeting was only published once in the *Gazette* and twice in a newspaper, the subsequent proceedings were invalidated (*Clark v. McKenzie*, 16 N.L.R. 100).

(b) This substantially reproduces sec. 36 of Law No. 36, 1888, in respect of which it was held, that an interested member (see sec. 35, post) is not precluded from being on a committee of inspection (*Holley v. Local Board, Umgeni Division*, 10 N.L.R. 141).

Act 35, 1901. question in which he may be directly or indirectly (a) interested, and should either party to a case before the Board so desire, the question whether a member is disqualified to vote under this section shall be determined by a majority of the Board then sitting, exclusive of the member concerned, and in the event of an equality of votes the member concerned shall be deemed disqualified.

Record of decision and reasons.

36. After the Board shall have arrived at a decision on the question or dispute referred to them, the decision and the reasons therefor shall be recorded by the Clerk, and shall be signed by the Chairman and all the members of the Board present.

Record of dissent.

Should any member differ from the decision of the majority his reasons for so differing may, at his request, be recorded in writing, and shall be signed by him.

Records to be deposited in Magistrate's office.

37. The decision of the Board and the reasons for such decision, and the reasons of any member dissenting from the decision shall, together with the minutes of the proceedings and the evidence produced, be deposited in the office of the Magistrate.

Travelling expenses of members.

38. It shall be lawful for any Road Board, out of the funds voted by the Legislature and placed at its disposal by the Government, to pay to each member attending any meeting of such Board, travelling expenses at a rate not exceeding in the whole Twenty Shillings per diem for every day necessary for journeying to, remaining at, and returning from the place of meeting.

Agreement to make the Board's decision final.

39. It shall be lawful for the parties to any dispute before a Road Board, if all the parties shall so agree, to enter together into a written agreement that the decision of the Road Board shall be final and conclusive in all respects, both as to the subject matter of the dispute and as to costs; and whenever an agreement shall have been so made the decision of the Road Board shall be final, and shall bind all the parties, and there shall not, so far as it affects any of the parties to such agreement, be any appeal from such decision to any Court.

Notification of decision.

40. As soon as may be after the decision of the Board has been given, the Magistrate shall notify twice in the *Government Gazette*, and in each of two newspapers circulating in the District, that the proceedings and decision are open to inspection at his office, and that unless appealed from within one month

(a) The words "or indirectly," and all that follow the word "interested," are new as compared with sec. 29 of Law No. 36, 1888. Under the repealed Law it was held that a member is directly interested when he may be individually through his property benefited or injured by the decision of the Board (*Holley v. Local Board, Umgeni Division*, 10 N.L.R. 141).

from the date thereof (which date shall be specified in the notice) the decision of the Board shall become final. **Act 35, 1901.**

41. It shall be competent for any person affected by the decision of a Road Board to appeal to the full Bench of the Supreme Court: Provided that if the person desirous of appealing shall not have been one of the parties to the proceedings of the Road Board, he shall before taking out the writ of appeal be required to deposit the sum of Fifteen Pounds Sterling, with the Clerk of the Road Board, as security for the costs of appeal. **Appeal to Supreme Court.**

42. Proceedings for appeal shall be instituted by issue of process of appeal of the Supreme Court at any time within one month from the date of the decision appealed against, but not later, except by leave of the Supreme Court on account of absence, illness, or other sufficient cause shown to the satisfaction of the Court. **Proceedings in appeal.**

43. Save as is by this Act provided an appeal shall be instituted and prosecuted within the same time, and in the same manner, as in the case of an appeal from a Magistrate's judgment: Provided that **Prosecution of appeal.**

(a) No fees of Court shall be payable; and

(b) The Court may dispense with notice to other parties upon any application for extension of time.

44. Service of the writ of appeal shall be made upon all parties to the case other than appellants. **Service of writ of appeal.**

45. The Court may revise the proceedings, and may confirm, reverse, alter, or correct the decision, or may remit the case for further enquiry or hearing, and may give any necessary instruction for the guidance of the Board, or make such order thereon as shall seem proper: Provided that no order or decision of the Road Board shall be liable to be reversed upon a question of fact (a) or by reason of any irregularity or defect in the record of proceedings, unless it shall appear to the Supreme Court that a failure of substantial justice has, in fact, resulted therefrom, or that any person, not being a party to the case, may be prejudiced thereby. **Powers of Supreme Court in appeal.**

46. The judgment of the Supreme Court shall be conclusive and binding upon the Board and the parties. **Judgment of Supreme Court conclusive.**

47. Such judgment shall be recorded by the Clerk, and (unless it is of a nature to require a further judgment or decision to be given) shall become and be regarded as the final decision of the Board. **Record of judgment.**

(a) For an instance of the Court refusing to interfere with the decision of the Board on a question of fact see *Symons v. Local Road Board, Estcourt* (25 N.L.R., 38).

Act 35, 1901.

Cases to be watched on behalf of Government.

48. It shall be the duty of the Chief Engineer, Public Works Department, or of an officer appointed by him, to watch the proceedings in every appeal from the decision of a Road Board, and to intervene, if need be, without notice or summons specially served upon him, on behalf of the interests of the Government.

Publication of final judgment

49. When the decision of the Board shall become final by efflux of time, or a final judgment of the Supreme Court has been recorded, the Magistrate shall publish the same in the *Government Gazette* and in two newspapers circulating in the District.

Laying off roads.

50. When the decision of the Board has become final as aforesaid, the Board, or the Magistrate on their behalf, may employ a Government Surveyor to lay off by survey any road or roads authorised or defined by the decision or judgment on the plan or diagrams of the land in the Surveyor-General's Office, and such surveyor shall certify that the road or roads have been laid off in accordance with the decision of the Board.

No costs as between parties, except in certain cases.

51. No costs shall be awarded by the Board as between the parties unless the Board shall be of opinion that the application or the defence was frivolous or vexatious.

Decision as to costs.

Subject as aforesaid the Board may decide as to the costs of the enquiry, the record of the same, the expenses of advertising and of the survey, advocates' and attorneys' charges and all other costs incidental to the cause, and by which of the disputants they shall be paid.

Taxation and recovery.

Such costs, whether as between the parties or as between attorney and client, shall be taxed by the Clerk of the Court, and a writ of execution may thereafter be issued by him for the recovery thereof upon the application of the person entitled thereto.

PART III.

Miscellaneous Provisions.

Provision against stopping existing by-roads.

52. No person shall close, break up, whether by ploughing or otherwise, or in any way injure an existing by-road, unless he shall for at least a month before doing so, erect at either end of the by-road or right-of-way intended to be closed, a notice board intimating his intention to close the same, and unless he shall also obtain the permission of the District Inspector or other Officer of the Department of Public Works being in charge of the roads in the District.

Penalty for closing by-roads.

53. Any person who shall close a by-road in contravention of the preceding section shall be liable to a fine not exceeding Twenty Pounds Sterling.

54. Nothing in this Act shall be deemed to affect the jurisdiction of any Road Board to order the closing of a road, or to authorise any person to close a road which has been opened by order of the Road Board. **Act 35, 1901.**

Saving of authority of Road Board.

55. Whenever the proprietor (which expression shall include a tenant or occupier) of any land over which a by-road shall pass shall be desirous of fencing such land, he shall be at liberty to do so, if he provides swing gates in such fencing so as to allow persons entitled to use such by-road free access thereto; and such gates shall at all times be kept in proper repair by the proprietor. Such gates shall be folding gates, and be swung, and have proper fastenings, and shall be of such width and construction as the Road Board shall determine. **Gates on by-roads.**

Any gates erected before the passing of this Act, if coming within the definition of this Act, shall be considered as erected under this Act.

56. When a dividing fence crosses a by-road or right-of-way, it shall be competent for any one of the proprietors of land on either side of such dividing fence to erect swing gates in terms of this Act, and to recover from the adjoining proprietor one half the cost of such erection, without prejudice to the liability of any other person who may be ordered by the Board to contribute towards the expense of the erection and up-keep of such gate. **Division of cost of gates in dividing fence.**

57. Every person, not being the sole proprietor, or having his authority, who shall pass through any gate provided in pursuance of this Act, shall, immediately after so passing through the same, with or without any vehicle or animals in his care, close and fasten such gate, or cause the same to be closed and fastened, under pain of a fine not exceeding Five Pounds. **Gates to be closed.**

58. Any person not being the sole proprietor, or having his authority, who shall open or unfasten any gate erected or provided in pursuance of the provisions of this Act, except for the purpose of then and there passing through the same with or without any vehicle or animals in his care, or of enabling some other person or persons so to pass, shall be liable to a fine not exceeding Ten Pounds, or in default of payment thereof, to imprisonment, with or without hard labour, for any term not exceeding two months. **Penalty for wrongfully opening gates.**

59. Nothing in this Act contained shall prevent any person who deems that he has sustained loss or damage by or in consequence of the leaving open of any gate erected in accordance with the provisions of this Act from bringing an action for the recovery of such loss or damage. **Actions for damage through leaving gates open.**

60. The Governor in Council may from time to time make regulations for the purposes of this Act, and may by any such **Regulations.**

Act 35, 1901. regulations appoint penalties for the contravention thereof not exceeding Ten Pounds Sterling.

Contra-
ventions of Act
and regula-
tions.

61. All contraventions of this Act and of the regulations shall be cognisable in the Magistrates' Courts, and, unless otherwise provided, shall be punishable by fine not exceeding Ten Pounds Sterling, or in default of payment to imprisonment with or without hard labour for any term not exceeding one month.

SCHEDULE NO. 1.

Road Board Election Procedure.

Schedule

1. When an election of a Road Board or of any members of a Road Board is to be held the Magistrate shall, at least thirty days before the date for receiving requisitions of candidates, sign and affix to the notice board at the seat of Magistracy a notice thereof (a).

Such notice shall be published twice in the *Government Gazette*, and at least once in one or more newspapers circulating in the Division.

Such notice shall be in the Form No. 1 in Schedule No. 2.

The date to be fixed by such notice for the delivery of requisitions shall be not less than sixteen days before the date fixed for the election.

2. No person shall be deemed a candidate at any election unless he has been invited to become such candidate by a requisition signed by at least five qualified voters of such Division, and shall have transmitted such requisition, with his acceptance thereof, to the Magistrate of the Division on or before the day appointed by the aforesaid notice for the delivery of requisitions.

3. No person shall sign any requisition to more than the number of candidates to be elected, and if any person signs any requisition to more than that number his signature shall be expunged from all requisitions which he has signed.

4. If the number of duly qualified candidates who have accepted requisitions is five only, or less than five, such candidates shall be deemed to be elected, and the Magistrate shall make a return accordingly without having recourse to a poll. If the number of valid requisitions exceeds that of the vacancies, the members shall be elected from among the persons so requisitioned.

5. If a poll is necessary the Magistrate shall, at least twelve days before the day appointed for the election, cause the names of

(a) As to insufficiency of notice, see *McKenzie v. Clark*, 17 N.L.R., 354.

the candidates for election, together with the names of the persons who have signed such requisition, to be published in the form No. 2 of Schedule No. 2 by affixing such form to the notice board, or in some other conspicuous place, at the Magistrate's Office.

Act 35, 1901.
Schedule.

6. The Magistrate shall, at least eight days before the day appointed for the election, cause to be issued through the post a voting paper in the form No. 3 of Schedule No. 2 to each voter having the necessary qualification under this Act to his address as entered on the Voters' Roll, and such voting paper (the Christian name, surname, designation, and residence of the voter as appearing on the poll having previously been filled in by the Magistrate, or someone having his authority) contained in an envelope shall be accompanied by a letter of intimation in the form No. 4 in the Schedule No. 2.

7. Each voter upon receipt of his voting paper, if he desire to vote in the election, shall insert in the voting paper the name of the candidate or candidates for whom he votes and the place and date of signature, and affix his subscription thereto in the presence of one witness, who shall personally know the voter, and who shall attest the fact of such voting paper having been signed by the voter in his presence at the place therein mentioned, by signing his name at the foot thereof, and adding his designation and place of residence in the form or to the effect set forth in the form.

8. Thereafter the voting paper so signed and attested as aforesaid shall, if the voter desire to vote in the election, be returned through the post, or in some other way delivered to the Magistrate by whom it was issued, so as to reach him not later than the time named for the return of the voting paper. Each voting paper when received back by the Magistrate shall be kept by him, unopened, in a fireproof safe or other place of safety until the poll begins.

9. The votes shall be given by means of voting papers as aforesaid, and not otherwise, and the majority of the votes which shall be so given and returned shall determine the election.

10. Every person entitled to vote shall be entitled to give one vote and no more for each of any number of candidates not being in excess of the number capable of being elected at any election.

11. The poll shall close at four o'clock in the afternoon of the appointed day. The poll shall be taken before the Clerk of the Road Board, or before some other officer appointed for that purpose by the Magistrate.

Act 35, 1901.
Schedule.

12. At the close of the poll the voting papers shall be opened and examined by the Clerk of the Board or other officer as aforesaid, and if found to be in order shall be counted and put apart until the end of the poll. The candidates may themselves attend, or may appoint agents to represent them and attend at the counting of the votes.

At the end of the poll the votes shall be cast up and the Magistrate shall declare to be elected the candidates for whom the majority of the votes has been given.

The return of the Magistrate shall be in the Form No. 5 of Schedule No. 2.

13. When an equality of votes is found to exist between any candidates at an election for a Road Board, and where the addition of a vote would entitle any one of such candidates to be declared elected, the Magistrate as the returning officer may give such additional vote, but he shall not in any other case be entitled to vote at an election for which he is returning officer.

14. The Magistrate shall notify by publication in the *Government Gazette* the names of all members elected to serve upon the Road Board.

SCHEDULE NO. 2.

FORM NO. 1.

Form of Notice of Election.

Election of member of the Road Board for the Division of

Notice is hereby given that an election of
member will be held on _____, the _____ day
of _____, 19 _____.

Candidates must be requisitioned by writing, subscribed by not less than five electors.

Candidates must be duly qualified, and the requisition paper must state in full the surname and other names of the person requisitioned, with his abode and description.

Requisitions, duly accepted, must be delivered by the candidate himself, or someone on his behalf, at the office of the Magistrate for this Division, before three o'clock in the afternoon of the _____ day of _____ next.

Dated at _____ this _____ day of _____ 19 _____
Magistrate.

FORM No. 2.

Act 35, 1901.

Names of candidates at the election of members of the Road Board for the Division of _____ to be held on _____ the _____ day of 19____, together with the names of the persons who have signed requisitions to the candidates.

Candidate :

Requested by :

Dated at _____ the _____ day of 19____ Magistrate.

FORM No. 3.

Road Board Election.

Division of _____ voting paper.

I, A. B. (the Christian name, surname, and designation of the voter), entered on the Voters' Lists as residing at (residence as appearing on the Register), hereby declare that I have not before voted at this election, and hereby give my vote at this election for

.....
.....
.....
.....
.....

Witness my hand this _____ day of 19____

(Signed) A. B.

Signed by A. B., who is personally known to me, at the place and on the date above-mentioned, in my presence.

(Signed) C. D.

(add designation and place of residence).

Act 35, 1901.

FORM No. 4.

Road Board Election.

Division of

To A. B. (*Christian name, surname, and designation of voter*).

Sir,

I have to intimate that

1. (*Names of Candidates in full.*)
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.

have accepted requisitions to fill the office of a member of the Road Board for this Division.

With this letter you will receive a voting paper, and should you desire to vote at this election, I have to request that you will insert in the blanks of the voting paper the names of the persons for whom you vote, and the place and date of your signing, and having signed your name thereto in presence of one witness, who will also sign his name as directed, you will return the voting paper, by post or otherwise, to me at the seat of Magistracy so as to reach me on or before 4 o'clock p.m. of (*insert the day on which the poll closes.*)

Dated at _____ this _____ day of _____ 19 .

Magistrate.

FORM No. 5.

I, A. B., Magistrate of the _____ Division hereby declare that the Voting Papers in this election have been duly counted, and that the following is the result :—

Voting Papers in favour of _____	(number).
Voting Papers in favour of _____	(number).
Voting Papers in favour of _____	(number).
Voting Papers in favour of _____	(number).
Voting Papers in favour of _____	(number).
Voting Papers in favour of _____	(number).

Voting Papers in favour of (number). Act 35, 1901.
 Voting Papers in favour of (number).
 Voting Papers in favour of (number).
 Voting Papers in favour of (number).
 and that

have been elected members of the Road Board for the Division of
 Certified by me and signed by me at
 on the day of at
 o'clock afternoon.

(Signed) A. B.,
 Magistrate,
 Division.

SCHEDULE No. 3.

FORM No. 1.

Road Board

Division of

Notice is hereby given that the seat (*or seats*) of
 (*and*) on the
 Road Board has (*or have*) become vacant.

Requisitions for candidates for election of a member (*or*
 members) to fill the vacancy (*or vacancies*) will be received
 at this office up to noon on the
 day of 19 , and no later.

Candidates must be requisitioned by writing, subscribed by
 not less than five electors.

Candidates must be duly qualified, and the requisition
 paper must state in full the surname and other names of the
 person requisitioned, with his abode and description.

Dated at this day of
 19 .
 Magistrate.

FORM No. 2.

Road Board

Division of

Notice of Election.

Notice is hereby given that an election of
 member of the Road Board will be held on
 the day 19 .

Dated at the day of
 19 .
 Magistrate.

ROADS.

[See "FENCES"; "ROAD BOARDS."]

Act No. 11, 1906.

"To amend Law No. 13, 1865, entitled Law 'To regulate the employment of wagons and other vehicles on the public roads and streets within the Colony of Natal.'

[5th July, 1906.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Repeal.

1. Section 1 of Law No. 13 of 1865 is hereby repealed, and the following is enacted in lieu thereof:—

The owner of every wagon, cart, or other vehicle used on any public road or street, shall affix or paint, or cause to be affixed or painted, in one or more straight lines, in legible letters, not less than one inch in height, upon some conspicuous part of the wagon, cart, or other vehicle, his surname, with his Christian names or the initials thereof, and also his address: Provided, that nothing in this clause shall be construed to extend to any wagon, cart, or other vehicle used solely for the conveyance of private persons or passengers.

ROYAL ARMS, &c.

Act No. 45, 1906.

“To prohibit the unauthorised use of the Royal Arms and of Government Badges and the like.”

[5th September, 1906.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. Any person who, in connection with any trade, business calling or profession—

Offence of using Royal Arms or other device resembling same.

(a) Without the authority of His Excellency the Governor given in writing by the Private Secretary to the Governor, assumes or uses the Royal Arms or any other arms or device so nearly resembling the same as to be calculated to deceive, or

(b) without the authority of the Colonial Secretary given in writing by the Principal Under Secretary:—

(1) assumes or uses any Government arms, badge, design or distinguishing mark, or any arms, badge, design or mark so nearly resembling the same as to be calculated to deceive,

Using Government badge.

(2) uses or knowingly allows to be used by any person in his service any police or other Government badge indicating that the bearer is employed by any department of Government, or any badge so nearly resembling the same as to be calculated to deceive,

shall be guilty of an offence and shall be liable on conviction before a Magistrate to a fine not exceeding Twenty Pounds (£20) Sterling.

Penalty.

2. Any authority given as aforesaid may at any time be revoked.

3. It shall not be necessary for the purposes of any prosecution under this Act to prove that written authority for the act in question has not been given, but it shall rest with the accused person to prove such authority.

Onus of proving permission to use.

SALE AND PURCHASE (LAND).

[See "CONTRACTS."]

SCAB.

[See "SHEEP (DISEASE IN)."]

SERVANTS.

[See "MASTER AND (NATIVE) SERVANTS."]

SHEEP (DISEASE IN).

Act No. 19, 1906.

"To amend the Scab Law, 1887."

[28th July, 1906.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Governor may authorise entry of sheep into colony without necessity of dipping.

1. Notwithstanding the provisions of Section 19 of the Scab Law, 1887, it shall be lawful for the Governor to authorise the entry of sheep into this Colony from all or any of the other Colonies in South Africa without the necessity of dipping such sheep, subject to such conditions as may be contained in regulations to be made by the Governor in that behalf. Any such authority may at any time be suspended or revoked by the Governor.

Amendment of sec. 20 of Scab Law, 1887.

2. The following proviso shall be added to Section 20 of the Scab Law, 1887, between the words "Law" and "Provided":—

Provided, however, that in all such cases the owner shall have obtained, and shall produce for inspection whenever required, a certificate signed by the Government Stock Inspector of the District from which he is bringing his sheep into Natal, showing that the flock has been personally inspected not more than ten days previous to the arrival of the sheep at the Natal Border, and that the sheep are free from scab.

3. The words "affected with scab" occurring in section 14 of the Principal Law, are hereby expunged, and the said section shall apply to all sheep except those imported by sea or exempted by section 20 of the said Law. **Act 19, 1906.**
Amendment of sec. 14.

4. The Governor in Council may from time to time make regulations dealing with any matters necessary for the proper carrying out of this Act. **Regulations.**

SHERIFF

[See "COURTS (SUPREME)."]

SHIPPING.

[See "IMMIGRATION (RESTRICTED)."]

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Act No. 4, 1902.

"For the regulation and control of fishing and other vessels plying on or near the coasts of Natal."

[2nd May, 1902.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Interpretation.

1. In this Act the word "Vessel" means any ship, boat, or other vessel plying on or near to the coasts of Natal, or in any port or harbour thereof.

From the above definition there shall be excluded:—

1. All ships to which Law No. 1, 1890, applies.
2. Ships registered elsewhere than in Natal and plying to or from any port outside Natal.

Regulations.

2. The Governor in Council may from time to time make and alter regulations for any of the following matters:

Classification.

(a) The classification of vessels.

Construction and equipment

(b) The requirements as to construction of any class of vessel, the equipment of sea-going vessels with boats, life-saving apparatus, lights and other things proper for their safety and that of their passengers.

Passengers.

(c) Permission to carry passengers, and the number of passengers which may be carried.

Survey and certificates.

(d) The periodical survey of vessels, and all matters relative to certificates of survey, including the cancellation thereof.

Inspection.

(e) The inspection of vessels and the obligation of compliance with any requirements pointed out upon such inspection.

Other matters.

(f) All matters necessary for enforcing the requirements of this Act or of the regulations.

Penalties.

3. The regulations under this Act may appoint penalties not exceeding Fifty Pounds sterling for the contravention or dis-

regard of any such regulation, except as is hereinafter specially provided. **Act 4, 1902.**

4. If a vessel plies or goes to sea or attempts to do so without having the appropriate certificate and exhibiting the same as may be required by the regulations, or without having in good order and condition the equipment required by the regulations, or without having done any repairs or fulfilling any other lawful requirement by an Inspector, the owner and the Master shall each be liable to a fine not exceeding Fifty Pounds sterling. **Going to sea without proper certificate, equipment, &c.**

5. All contraventions of this Act or the regulations shall be cognizable in the courts of Magistrates. **Jurisdiction of Magistrates.**

6. Any vessel attempting to go to sea without the necessary certificate or without complying with the requirements of this Act or of the regulations may be detained by any proper officer of Customs or of the Port. **Detention of Vessels.**

Act No. 50, 1903.

“To amend the Law relating to Foreign Seamen.”

[25th December, 1903.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. This Act may be cited as the “Foreign Seamen Act, 1903.” **Title.**

2. If any seaman belonging to any foreign ship deserts therefrom, or otherwise absconds or absents himself from his duty whilst such ship is anywhere within the territorial limits of Natal, any Magistrate, upon the complaint on oath of the master, mate or other person having charge of such ship, of the fact of such desertion, absconding or absence from duty, may issue his warrant for the apprehension of such seaman; and thereupon— **Deserter seamen belonging to foreign ships may be apprehended.**

(a) May deal with such seaman as hereinafter is provided; or

(b) May place such seaman at the disposal of the consul, vice-consul, or other consular officer or agent of the nation or state to which such ship belongs; or

(c) At the request of such consul, vice-consul, or other consular officer or agent may order such seaman to be put forcibly on board the ship to which he belongs.

Act 50, 1903.

Punishment of seamen belonging to foreign ships for offences committed.

3. Every seaman of any foreign ship who, whilst such ship is within the territorial limits of Natal, commits any of the offences hereinafter mentioned, shall, upon conviction thereof before a Magistrate, be liable to be imprisoned with hard labour in a gaol in Natal for periods not exceeding those hereinafter set against the said offences respectively, that is to say:—

- (a) For desertion from the ship to which he belongs, a period of twelve weeks for the first offence, and a period of six months for a second or subsequent desertion ;
- (b) For assaulting any master or other officer of such ship, a period of twelve weeks, or in the alternative a fine of not more than Three Pounds sterling.
- (c) For wilful disobedience to any lawful command of such master or other officer of such ship, a period of four weeks, or in the alternative a fine of not more than Two Pounds sterling.
- (d) For continued wilful disobedience to such lawful commands, or for continued wilful neglect of his duty as a seaman of such ship, a period of twelve weeks, or in the alternative a fine of not more than Three Pounds sterling.
- (e) For combining with any other or others of the crew of the ship to which he belongs to disobey the lawful commands of his officers or to neglect his duty as a seaman, or to impede the discharge, loading or departure of the ship, or the progress of the voyage, a period of twelve weeks ;
- (f) For drunkenness or other misconduct disabling any such seaman for the discharge of his duty, a period of four weeks for the first offence and a period of eight weeks for any subsequent offence, or in the alternative a fine of not more than Two Pounds sterling in either case :

Provided that nothing herein contained shall take away or abridge any powers which a master of any such ship has over his crew.

Return of deserting foreign seaman to ship.

4. (1) A Magistrate may, at the instance of the consul, vice-consul, or other consular officer or agent of the nation or state to which the ship of any seaman convicted and sentenced under this Act belongs, order any such seaman, at or after the expiration, or earlier determination of his sentence of imprisonment, or at any time during the continuance

thereof, to be put forcibly or otherwise on board such ship. **Act 50, 1903.**

- (2) In all such cases the Magistrate may grant an order to any gaoler or keeper of the prison to discharge such seaman from prison into such custody as such Magistrate directs, which shall be a sufficient warrant to such gaoler or keeper to deliver such seaman into such custody and for such purpose as aforesaid.

5. A Magistrate may, upon the complaint on oath of the master or other person having charge of any such ship as aforesaid, that he has good cause for suspecting that any runaway seaman of such ship is harboured, secreted or concealed on board any ship, boat, or other vessel, or in any house or place whatsoever, issue a warrant directing some constable to search such ship, boat, or other vessel, or such house or place, and to apprehend such seaman.

Search
warrants.

Such warrant shall be executed accordingly, and every such seaman shall upon his apprehension be brought with all convenient speed before the Magistrate to be dealt with as is herein directed.

6. Whosoever—

- (a) Harbours, conceals, employs, or retains, or assists in harbouring, concealing, employing or retaining any seaman belonging to any such ship as aforesaid, who has deserted therefrom, or otherwise absconded or absented himself from duty, knowing such seaman to have deserted or otherwise absconded or absented himself from duty, without having used reasonable diligence to ascertain whether such seaman has been duly discharged from his last employment; or
- (b) Causes, induces or persuades any such seaman by words or by any other means whatsoever, to violate or to attempt or endeavour to violate any agreement which he may have entered into to serve on board any such ship as aforesaid; or
- (c) Knowingly connives at the desertion, absconding or absence from duty of any such seaman;

Punishment
for harbour-
ing, &c., of
foreign sea-
men.

shall for every such offence, upon conviction thereof before a Magistrate in a summary way, be liable to a fine not exceeding Twenty Pounds sterling for the first offence, and not more than Fifty Pounds sterling for a second or subsequent offence; and in the case of non-payment thereof the Magistrate may commit

Act 50, 1903. him to gaol for any period not exceeding three months with or without hard labour, such imprisonment to cease on payment of the fine.

In what cases warrants may be issued and offences punished.

7. No such warrant as is in this Act mentioned shall be issued, and no offence hereby made punishable shall be prosecuted or punished, except—

- (a) At the instance, or with the express assent in writing of the consul, vice-consul, or other consular officer or agent of the nation or state to which such ship as aforesaid belongs; or
- (b) It has been duly notified by order of the Governor in the *Natal Government Gazette* that the Government of such nation or state has, by its proper officer, signified its desire that this Act may be enforced in all cases against the crews of ships belonging to such nation or state.

Evidence as to articles or agreement.

8. (1) In prosecuting under this Act it shall not be necessary for the purpose of proving the articles or agreement under or by which any such seaman has engaged to serve on board any such ship, to call any subscribing or attesting witness thereto; but such articles or agreement may be proved as if there were no such subscribing or attesting witness.

(2) A copy of any such articles or agreement as aforesaid, certified under the hand of the consul, vice-consul, or other consular officer or agent of the nation or state to which such ship belongs, to be a true copy thereof, shall be received as evidence of the existence and contents of such articles or agreement.

By whom expenses payable.

9. All expenses incidental to the apprehension, confinement, and removal of any seaman under and by virtue of this Act shall be paid by the consul, vice-consul, or other consular officer or agent at whose instance such seaman was apprehended, proceeded against, or removed.

Jurisdiction and procedure.

10. (1) All proceedings under this Act may be conducted in a Magistrate's Court.

(2) The service of any summons or other matter in any legal proceedings under this Act shall be good service if made—

- (a) Personally on the person to be served; or
- (b) By leaving such summons for him on board any ship to which he belongs with the person being or

appearing to be in command or charge of such ship. **Act 50, 1903.**

11. (1) No conviction under this Act shall be quashed merely for want of form. Convictions and warrants not to be invalid for certain defects
- (2) No warrant of commitment or order for imprisonment shall be held void by reason of any defect therein: Provided it is therein alleged that the person has been convicted or ordered to be imprisoned, and there is a good and valid conviction or an offence to sustain the same.

SHOP HOURS.

Shop Hours Act, 1905.

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Act No. 36, 1905.

“To regulate the closing times of shops in towns, villages and certain other places.”

[26th August, 1905.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Short title.

1. This Act may be known as the “Shop Hours Act, 1905,” and shall commence on the first day of January, 1906.

Repeal.

2. Act No. 29, 1904, entitled Act “To regulate the closing hours of shops within boroughs and towns” is hereby repealed, without prejudice to the prosecution of any offence thereunder.

Application of Act.

3. This Act shall apply to the following places:—

All boroughs and townships established under laws relating to municipal boroughs or local townships.

All villages coming within the operation of the Village Water Supply Act, 1897, or of any like Act, or of any Act establishing local authorities for the control or management of villages.

The villages specially mentioned in the schedule of this Act and any village which the Governor in Council

may by proclamation add to the list in the said **Act 36, 1905.**
schedule.

All places lying within a distance of five miles from the nearest boundary of any borough, township or village to which this Act applies.

4. In this Act:—

“Shop” includes any building, room, market stall, tent, booth, or other place in or upon which goods are offered or exposed for sale (a) to the public by wholesale or retail (b). Interpretation

“Closed” means closed against the admission of any person for the purpose of buying or doing any shopping business, either for the whole day or for the remainder of the day, as the case may be.

“Shopkeeper” means the owner, or the representative in Natal of the owner of the business carried on in any shop.

“Shop Assistant” includes salesmen and saleswomen, shop walkers, and others engaged in or about the selling of goods in a shop.

5. All shops shall, save as is hereinafter excepted (c), be closed: Closing time of shops.

(a) On all Sundays and public holidays (d), during the whole day.

(b) On every Monday, Tuesday, Wednesday and Thursday at half-past five o'clock in the afternoon.

(c) On every Friday at ten o'clock in the evening.

(d) On every Saturday, at two o'clock in the afternoon.

6. Hawkers, pedlars and the like shall not be allowed to carry on their trade at any time during which shops are by this Act required to be closed, and the provisions of this Act in regard Hawkers, pedlars. &c.

(a) As to the meaning of “exposed for sale” see *Inspector of Nuisances, Durban, v. Gundelfinger* (2 N. L. J., 237), decided on sec. 18 of Act No. 45, 1901, ante, p. 220.

(b) See exceptions in secs. 7, 8 and 9, and see note to sec. 5, post.

(c) See note (b), supra. Cf. 4 Edw. 7, c. 31 (“Shop Hours Act, 1904”). In the Imperial Act, which is adoptive, exceptions are made in favor of “any fair lawfully held or a bazaar for charitable purposes.” As no such exceptions have been made by the Natal

legislature there can be little doubt that a person selling at a bazaar after prescribed hours would be guilty of contravening the provisions of sec. 14; and it is questionable whether the discretion vested in the Governor by sec. 9 extends to the exempting of bazaars.

(d) By reference to Act No. 18, 1901 (ante, tit. “HOLIDAYS”), this will include any day appointed by the Governor, by Proclamation, to be a public holiday. As to Sundays see note to sec. 12, post.

Act 36, 1905.

to the closing of shops shall *mutatis mutandis* apply to the closing of the business of hawkers, pedlars and the like (a).

Act not to apply to hotels and licensed premises.

7. This Act shall not apply to hotels and other premises licensed for the sale of intoxicating liquors, unless such liquors are kept for sale in any shop where a grocer's or any other shop business is carried on, in which case the shop shall be subject to this Act in the same manner as other shops.

Exemptions.

8. (a) Shops of the following classes shall be exempted from the operation of this Act:—

Restaurants, eating houses and refreshment rooms for the sale of food to be consumed on the premises.

Fresh milk, fruit, flower and vegetable shops.

Tobacconists' shops.

Bakers' and confectioners' shops.

Undertakers' shops.

Newsvendors' shops, railway stations book stalls.

Retail bicycle shops.

Butchers, poulterers and fishmongers.

(b) Chemists' and druggists' shops shall be closed at eight o'clock in the evening on every day from Monday to Saturday, but medical business may be done upon special call at any time during which such shops are required to be closed.

(c) Hairdressers' shops shall be closed (b) at seven o'clock in the evening of every day from Monday to Friday and at ten o'clock on Saturday evenings, and shall be closed on Sundays and public holidays.

If in any shops mentioned in this section any business is carried on which does not belong to one of the exempted classes the exemption given by this section shall not apply to such shop, and the shop shall be closed at the closing time appointed by Section 5 of this Act; but this clause shall not be deemed to apply to the sale of such articles as are by the recognized custom

(a) It is submitted that hawkers of food, fresh milk, fruit and other articles ordinarily sold by keepers of shops of the classes exempted by sec. 8 will be entitled to the same privileges as they would enjoy if they sold such articles in shops. *Sed quære* whether in the case of a person hawking food (not bread, fresh milk, fruit or confectionery) from door to door, the Act is contravened if such food is consumed on the premises of the purchaser.

(b) See definition of "closed" in sec. 4, ante. It is submitted that this does not debar a hairdresser from hairdressing and shaving. Query whether a person entering a hairdresser's saloon in order to be shaved enters "for the purpose of buying or doing any shopping business," (sec. 4). See *Palmer v. Snow*, [1900] 1 Q.B., 725; 69 L.J., Q.B., 356; 82 L.T., 199, where it was held that the Sunday Observance Act, 1677 (England), does not extend to a barber.

of trade usually sold in connection with and as a part of the business of any such shop, or to the special provision made in regard to medical business at chemists' and druggists' shops.

Act 36, 1905.

9. It shall be lawful for the Governor in Council, by notice in the *Government Gazette*, to appoint special closing times for shops doing marine business or for any shops of a special class or at a special place, the closing of which at the times appointed by this Act would in his opinion be attended with serious public inconvenience; provided that in the exercise of this authority regard shall always be had to the general intention of this Act.

Governor may appoint special closing times for certain shops.

10. The closing hours appointed by this Act shall not apply to any day from the 22nd to the 31st December in any year.

Closing hours not to apply to certain days.

11. Notwithstanding the provisions of this Act any shop may be kept open until ten o'clock in the evening on the day (not being a Sunday) preceding a public holiday, and at any place other than Pietermaritzburg and Durban where *Nachtmaal* is celebrated shops may be kept open until half-past five in the afternoon of the Saturday immediately preceding the Sunday on which *Nachtmaal* is celebrated.

Closing time on eve of public holidays, and *Nachtmaal*.

12. This Act shall not be construed to conflict with the provisions of Law No. 24, 1878, entitled "Law to provide for the better observance of the Lord's day, commonly called Sunday (a)."

Saving of Law 24, 1878.

13. It shall not be lawful, under pain of a contravention of this Act, for any shop assistant to be employed for more than fifty-four hours in any one week in any shops exempted by subsection (a) of section 8 of this Act, whether such employment be under special contract or for any special payment or otherwise.

Restriction of hours in exempted shops.

14. No goods shall be sold or offered for sale in any shop after the hour prescribed for closing.

Goods not to be sold after closing hours.

Customers who have entered a shop before the closing time may be served within a reasonable time, not in any case exceeding half an hour, after the closing time, provided that the shop doors are closed.

15. A shopkeeper and every person under him having the management or charge of a shop shall be liable for any con-

Who may be liable for contravention.

(a) See tit. "SUNDAY," Vol. 1. Law No. 24, 1878, specially enacts that certain persons, such as chemists, inn-keepers, eating-house keepers, butchers, bakers, dairymen, fishmongers, dealers in Indian stores, &c., may to a certain extent carry on their business on the

Lord's Day. Sec. 5, sub-sec. (a), ante, should therefore be read in conjunction with these provisions. It should be observed, however, that Law No. 24, 1878, is only applicable to those Boroughs to which it has been extended by Proclamation.

Act 36, 1905. travention of this Act, and it shall be immaterial whether he was present or had any direct cognizance of such contravention or not, but upon any charge for such contravention it shall be sufficient to prove that the contravention took place; provided, however, that a shopkeeper and his manager shall not be both convicted for the same offence.

Penalties.

16. Any person convicted of a contravention of this Act shall be liable to a fine not exceeding five pounds.

The magistrate shall notify the licensing authority of every such conviction.

It shall be in the discretion of the magistrate to declare the license of any person convicted twice within the period of twelve months to be suspended for a period of not more than three months.

Prescription.

No such prosecution shall be instituted after the lapse of one month from the time when the offence was committed.

Administra-
tion of Act in
boroughs and
local town-
ships.

17. This Act shall, in boroughs and local townships and in any other place, the local authority of which is by law invested with the authority to make by-laws for the government of the town or village, be administered by the corporation or local board or local authority.

Prosecutions for offences committed in boroughs and local townships and in such other places as last aforesaid may be instituted and conducted by such persons as are under the by-laws entrusted with the prosecution of contraventions of the by-laws, and the fines imposed for such offences shall be paid to the borough or township or other similar fund.

Town Council,
&c., may make
by-laws.

18. The town council, local board or other local authority invested by law with the power to make by-laws as aforesaid may make such by-laws for any matters necessary for carrying out this Act, and the Governor in Council may make regulations for the same purpose, applicable to villages and other places not having such a local authority.

SCHEDULE (a).

Bulwer	Stanger
Colenso	Stuartstown
Charlestown	Umzinto
Harding	Eshowe
Howick	Melmoth,
Pinetown	Bellair and
Port Shepstone	Tongaat.
Richmond	

(a) The list in this schedule may be added to by the Governor, by Proclamation; see sec. 3, ante.

SOLICITORS.

[See "COURTS (SUPREME)."]

SPIRITUOUS LIQUORS.

[See "INTOXICATING LIQUORS."]

SQUATTERS (NATIVE).

[See "NATIVES (IN GENERAL)."]

SUPREME COURT.

[See "COURTS (SUPREME)."]

SURVEYORS.

Act No. 28, 1905.

"To incorporate the Natal Institute of Land Surveyors."

[18th August, 1905.]

WHEREAS it is expedient to incorporate members of "The Institute of Land Surveyors of Natal," to enable it the more effectually to carry out its objects and to hold, transfer, mortgage, and otherwise deal with immovable property in this Colony in its corporate name:

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. The members of "The Institute of Land Surveyors of Natal" shall be and they are hereby incorporated, and declared a body corporate, with perpetual succession save as hereinafter provided, and shall sue and be sued in its corporate name. Incorporation.

2. In the event of the subscriptions and fees actually paid by the members in any two successive years falling below the sum of Forty Pounds (£40) Sterling for each year, the said Institute shall *ipso facto* cease to be incorporated as from the first day of January in the following year. Incorporation: when to cease.

Act 28, 1905.

Objects.

3. The objects of the institution are the promotion and advancement of the profession and practice of land surveying in all its branches, and the maintenance of the honour and the interests of the said profession, and to do any other lawful acts or things which may be considered necessary to attain and achieve any or all of the above objects.

Institute may acquire or dispose of property.

4. The said Institute shall and may in its corporate name acquire by purchase, taking on lease, exchange, or otherwise, lands and buildings and all other property, corporeal or incorporeal, which the Institute may from time to time think proper to acquire for the attainment or achievement of all or any of the objects for which it is founded, and which may lawfully be held by it, to sell, improve, manage, develop, mortgage, dispose of, or otherwise deal with, all or any part of such property of the Institute, and to maintain, alter, or add to any buildings erected upon such land or other property of the Institute: Provided always that all acts, deeds of transfer, leases, mortgages, or other bonds, and deeds or other documents and writings required to be registered by the Registrar of Deeds of this Colony (a) shall contain a reference to this Act, and shall be passed or executed by the president or vice-president for the time being of the said Institute when duly authorised thereto by the council of the said Institute under the common seal thereof, or by his attorney duly authorised in that behalf.

Liability of Members.

5. Every member of the said Institute shall be liable in respect of debts incurred during his membership, for a sum of Ten Pounds (£10) Sterling, and no more, and such sum shall be additional to the subscription payable by him in respect of the current year.

Power to make by-laws, &c.

6. The Council of the Institute may from time to time, subject to the approval of His Excellency the Governor in Council, frame, alter, amend and administer By-laws and Regulations for carrying into effect the objects and purposes of the Institute and for regulating its proceedings. Such By-laws and Regulations shall, when adopted at a General Meeting of the Institute and approved by His Excellency the Governor in Council, and published in the *Natal Government Gazette*, have the force of Law and shall be binding upon all members of the Institute in practice, in so far as the same may not be in conflict with the terms of this Act.

Property : how described in criminal proceedings, &c.

7. In any criminal prosecution, preliminary inquiry, or proceeding, or in any warrant, indictment, or other proceedings

(a) See note to sec. 4, Act No. 10, 1902, ante, tit. "ARCHITECTS."

at law, it shall be sufficient if any goods, property, assets, or other things, which shall or may be set out in any such indictment, warrant, or other proceeding, shall be described and said to be the property of the Institute, and the Institute shall be described therein by its corporate name. **Act 28, 1905.**

8. This Act shall commence and take effect from and after the promulgation thereof in the *Natal Government Gazette*. **Commence-
ment.**

TAXES (a).

[See as to Customs, Licenses, Stamps, &c., tit. "REVENUE."]

Act No. 38, 1905.

"To impose a Poll Tax."

[28th August, 1905.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Short title.

1. This Act may be cited as "The Poll Tax Act, 1905."

Poll tax.

2. Every male person of the age of eighteen years and upwards shall, save as is hereinafter excepted, pay an annual Poll Tax of One Pound Sterling.

Proof of age.

3. The burden of proof that any person is under the age of eighteen shall rest with such person, and if in any proceeding under this Act any person appears to the Magistrate to be of the age of eighteen years or upwards the Magistrate shall, in the absence of proof to the contrary, adjudge such person to be of the full age of eighteen years, and there shall be no appeal against such decision.

Tax when due.

4. The tax shall become due on the first day of January in every year, and shall be payable to any Magistrate, or such other officer as may be appointed to receive the same.

Recovery of tax.

5. The tax may be sued for in the Court of a Magistrate, and two or more persons may be joined in one suit.

Contravention by failure to pay tax.

6. If any person liable to the Poll Tax shall fail to pay the same within two months after the due date thereof, he shall be guilty of a contravention of this Act: Provided that no native shall be deemed to have been guilty of a contravention of this Act as aforesaid and no legal proceedings shall be taken against such native until after the thirty-first day of May in any year in respect of the Poll Tax due on the first day of January immediately preceding.

Legal proceedings.

7. Any such contravention may be prosecuted in the Court of a Magistrate, or the tax together with the fine may be sued for civilly by a Clerk of the Peace, or any person appointed by the Government for that purpose.

Two or more persons may be joined in one such prosecution or suit, and costs may, in a prosecution or civil suit, be awarded against any one or more defendants.

(a) As to rule of construction for Taxing Acts, see ante p. 575 tit. "REVENUE."

8. In any such prosecution, and in any suit for the Poll Tax or for the tax and fine, it shall be sufficient for the prosecutor or plaintiff to prove that the defendant has not produced his receipt for the tax, and unless the defendant shall produce his receipt or satisfy the Court that he was not liable to the tax, judgment shall be given against him (a). **Act 38, 1905.**
Burden of proof.

A defendant who produces his receipt to the Court may, nevertheless, be adjudged to pay costs if he does not satisfy the Court that he had good reasons for not having produced his receipt when previously required to do so. **Costs.**

9. Any police officer or constable may at any time call upon any person whom he may believe to be liable to the Poll Tax to produce his receipt therefor, and such person shall be obliged to do so, or if he is not able to do so he shall give his name and address, and answer any reasonable enquiries which the officer or constable may make concerning the matter; and if he fails to do so he shall be guilty of a contravention of this Act. **Inspection of tax receipt.**

10. All license, pass or registration officers, and all officers charged with the carrying out of any public duty of a similar kind, whether they be employed by the Government or by a municipal or other public authority, are enjoined and required, whenever any male person applies for a license, pass or registration of any kind whatever, to enquire of such person whether he has paid the Poll Tax due upon the first day of the previous January or not, and if such person shall not produce his receipt for the tax, the officer shall make a report thereof upon the same day, or at latest, upon the following day to the Natal Police at the nearest station, unless it clearly appear that the person is exempt from the tax, and he shall afford the police any necessary assistance in tracing such person (b). **Duties of enquiry, &c., enjoined on certain officers**

11. No pass to leave the Colony shall be granted to any person requiring such a pass unless he shall produce his receipt for the last Poll Tax, or shall satisfy the officer that he is not liable to pay the same. **Production of tax receipt on application for pass to leave the Colony.**

12. Any person who has lost his receipt for the Poll Tax may obtain a certified copy from the officer to whom he has paid the Poll Tax on payment of One Shilling. Any reference in this Act to a receipt shall include a certified copy. **Certified copy of tax receipt.**

(a) This sec. should be read in conjunction with sec. 12.

(b) It will be observed that the duty enjoined by this section upon license and pass officers is merely to enquire and report, not to refuse to issue any

license because of non-payment of the tax. It appears also that a person applying for a license, &c., in the month of January can only be required to state whether he has paid the tax due in "the previous January."

Act 38, 1905.

Regulations.

13. The Governor in Council may from time to time make regulations for all matters necessary for the purposes of this Act, and any person who contravenes any such regulations or any of the provisions of this Act shall be liable to a penalty not exceeding five pounds (£5) sterling.

Penalties.

Exemptions.

14. (1) Any native who is liable to pay Hut Tax under Law No. 13, 1875 (a), in any year, shall be exempt from the Poll Tax for that year.

(2) Natives working in the Colony, whose domicile is without the Colony, shall be exempt from the Poll Tax.

(3) Indians serving under indentures in pursuance of the laws relating to Indian Immigration, shall be exempt from liability to the Poll Tax during such indentures.

(4) Any person who shall prove that he is unable through poverty to pay the tax shall be excused therefrom for the time being but this excuse shall not prevent a subsequent prosecution or action if such person shall afterwards become able to pay the tax and fails to do so.

(5) Any person who shall prove that he is merely passing through the country (b), or visiting it for a period not exceeding six months, shall be excluded from liability to the Poll Tax.

15. This Act shall not apply to:—

(a) His Excellency the Governor and his personal staff;

(b) His Majesty's regular naval and military forces and European members of the Natal Police Force serving in the Colony.

(c) Consuls and all representatives of Foreign or Colonial Governments who are not engaged in private pursuits in the Colony.

Certain persons excluded from operation of Act.

(a) See tit. "NATIVE LAW," Vol. 2.

(b) The meaning of "passing through the country" does not seem quite clear. *Quære* where it applies to a person

travelling from place to place in the Colony in the course of a journey extending over six months.

TELEGRAPH.

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Telegraphs Act, 1901.

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Act No. 16, 1901.

“ To amend and declare the Law relating to Telegraphs.”

[19th August 1901.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

Short title.

1. This Act may be cited as the “ Telegraphs Act, 1901.”

Repeal.

2. Law, No. 11, 1863, entitled Law “ For the Construction and Regulation of Electric Telegraphs,” Law No. 6, 1864, entitled Law “ For securing precedence to Public Telegrams,” and Law No. 5, 1874, “ The Telegraph Law, 1873,” are hereby repealed, but such repeal shall be without prejudice to anything done, or any right acquired, or liability incurred thereunder.

Interpretation

3. In this Act—

“ Telegraph ” means, according to the context,

(a) Electric telegraph, telephone, or any other mode of conveying signs or signals by electricity or magnetism or electro-magnetism, or by pneumatic agency, or by any agency of a like nature or producing the like effect with any such agency as aforesaid :

(b) Any wire used for telegraphic purposes, and any casing, coating, tube or pipe enclosing the same ; also any cable, pneumatic or other tube or pipe, and any apparatus, thing, or means whatsoever used in connection with or for the purposes of the transmission of telegraphic messages or the maintenance of telegraphic communication.

“ Telegraphic ” has reference to anything included in the word “ telegraph.”

“ Telegram ” means any message or other communication transmitted or intended for transmission by telegraph.

“ Person ” includes a corporation, company, or partnership.

“ Undertaking,” in reference to a telegraph, includes all the rights, powers, privileges, works and other property of the person owning the telegraph, for the transmission of telegrams in this Colony for money or other consideration.

4. The Colonial Government shall, from and after the passing of this Act, have the sole right and exclusive privilege of transmitting telegrams within the Colony of Natal, and of performing the incidental services of receiving, collecting or delivering telegrams, except as hereinafter provided, and saving the authority of any department of His Majesty's Imperial Government.

Act 16, 1901.

Colonial Government invested with sole right of receiving and transmitting telegrams.

5. There shall be excepted from the said exclusive privileges of the Colonial Government all telegrams of the following descriptions, that is to say:—

Certain telegrams excepted.

- (a) Telegrams transmitted by a telegraph licensed as hereinafter provided and maintained for the exclusive private use of any person, and in respect of which telegrams, or of the collection, receipt, transmission or delivery of which no money or valuable consideration shall be, or promised to be, made or given.
- (b) Telegrams transmitted by any person empowered by any special Act in force at the time of the passing of this Act to transmit telegrams and to charge therefor.
- (c) Telegrams transmitted by sea to or from any place outside the Colony (a).

6. Any person who, contrary to the provisions of this Act, shall transmit any telegram, or shall receive, collect, or deliver any telegram, or shall aid or be concerned in any such act as aforesaid, shall for every such offence be liable to a penalty not exceeding Five Pounds Sterling; and where any person offending against this Act is a servant or person hired to do the act complained of, the employer shall be subject to a like penalty.

Penalty for unauthorised transmission of telegrams.

7. All the powers and authority vested by the succeeding clauses of this Act in the Colonial Government for the construction of telegraphs, and for purposes incidental thereto may, subject to any necessary vote of supply, be exercised by order of the Governor in Council without any special Act being passed in that behalf, and all such powers and authority may, in respect of the maintenance, repair, and upkeep of Government telegraphs, be at any time exercised by the Postmaster-General.

Exercise of the powers of Government.

8. Save as is otherwise specially provided in this Act, the Lands Clauses Consolidation Law, 1872, is incorporated with this Act.

Incorporation of Lands Clauses Law.

9. Whenever the construction of a line of telegraph shall have been authorised by the Governor in Council, it shall be

Entry on lands for construction of telegraph.

(a) These do not include "wireless telegrams"; see Act 11, 1904, sec. 1, post.

Act 16, 1901. lawful for the Government, by its servants, to enter upon any lands within this Colony belonging to private persons, or to companies or corporations, including streets or other lands set aside for public purposes, for the purpose of constructing telegraphs, and carrying out any work incidental or relative thereto, and to erect, set up, and maintain all necessary masts or poles, and lay down all cables, pipes, tubes, or other apparatus necessary for the proper working of such telegraphs, and, except in the case of streets or other lands within a town or village, to take therefrom any stone or other materials, and to take any lands required for other purposes connected therewith.

Notice of entry.

10. The powers conferred upon the Colonial Government for the taking and using of land for the construction of telegraphs shall not, except by consent, be exercised until one month's notice shall have been given to the person over whose lands the telegraph is to be erected, or from whom the land is required to be taken.

Every such notice shall set forth that the construction of the telegraph has been authorised by the Governor in Council.

In certain cases compensation not payable.

11. Nothing in this Act contained shall be deemed to give any person the right to compensation because of the construction or maintenance of a telegraph over his land, or because of the taking of his land when the right to construct telegraphs and take land is carried out within the terms of any reservation contained in the title deed of such land.

The Government shall not be liable to give compensation for the taking or user of streets and other public places of a town or village for the erection of telegraphs and telegraph poles therein, save so far as actual injury may be caused to any work or property :

Provided, however, that the construction of such telegraphs shall be carried out so as to avoid, as far as possible, all inconvenience to the owners of property, or to the public, and that all streets and other lands shall be properly levelled and left in good order and condition.

Entry on land for up-keep of line.

12. It shall be lawful for any authorised officer of the Postal Department of this Colony, without compensation to the owner or occupier, to enter at any time on lands over which a line of telegraph may run, for the purpose of inspecting the said line, and to cut away bush or timber obstructing or likely to obstruct the same, and to remove any impediment to the proper working of the telegraph.

Gates to be put up by Postal Department where required.

13. Where any fence renders it inconvenient or impossible for the officers of the Postal Department to obtain ready access to any land, the Department shall provide the necessary gates,

and duplicate keys shall be handed over to the owners of the lands. All such gates shall be kept locked, and any omission on the part of an officer of the Postal Department to lock the gates shall be deemed to be an offence under this Act. **Act 16, 1901.**

14. It shall be lawful for the Governor in Council to make, alter, and repeal regulations defining and fixing the charges to be demanded and received for the collection, transmission, and delivery of telegrams, and generally for the management, working, and maintenance of Government telegraphs, and for carrying out the objects of this Act, and such regulations may appoint penalties not exceeding Ten Pounds Sterling for any breach thereof, recoverable by civil or criminal suit in a Magistrate's Court. **Regulations.**

15. It shall be lawful for the Minister having charge of the Postal Department (hereinafter called the Minister) to grant to any person a license to construct and maintain a line of telegraph to be used for the transmission of such telegrams only as are excepted by Sub-section (a) of Section 5 of this Act from the exclusive rights of Government. **Licenses for private telegraphs.**

Such telegraph is referred to in this Act as a private telegraph.

16. Every application for a license to construct a private telegraph shall be addressed to the Postmaster-General, and shall set forth the route proposed to be taken by the telegraph, the names of the owners of the lands along the proposed line of route, and the nature of their properties and shall contain a declaration that the consent of all persons owning or occupying the land to be traversed has been obtained to the construction of the telegraph. **Applications for licenses.**

17. The Postmaster-General shall report upon every application to the Minister, who shall have the discretion to grant or refuse a license. **Report on application.**

18. Every license shall contain such provision as the Minister may consider necessary for the protection of any other telegraphs, and for the prevention of injury to the public. **Conditions of license.**

19. Every license shall specify the period for which it shall endure, which period shall not exceed seven years; but any such license may be renewed from time to time, subject to any proper and reasonable conditions. **Term of license: Renewal.**

If the renewal of a license be refused, the applicant shall have the right of appeal to the Governor in Council, whose decision shall be final.

20. The Minister may give permission in writing for the transfer of a license. **Transfer of license.**

Act 16, 1901.

Cancellation of license.

21. It shall be lawful for the Minister to cancel and determine a license if, after notice has been given by the Postmaster-General to the licensee of any breach of the conditions of the license, or of any defect in any part of the telegraph likely to cause injury to person or property, the licensee fails to make good such breach or defect within the time appointed by the notice, which shall not be less than ten days from the date of service of the notice.

There shall be a right of appeal to the Governor in Council from any direction of the Minister cancelling a license, and the decision of the Governor in Council shall be final.

Liabilities of licensees.

22. Licensees shall be answerable for all damages, accidents and injuries happening through their act or default, or through the act or default of any person in their employ, by reason of any of their works or telegraphs, or by the escape of electricity or the like.

Expropriation of private telegraphs.

23. At any time after the passing of this Act it shall be lawful for the Colonial Government, upon three months' notice in writing, to purchase the whole or any part of the undertaking of any licensee, and it shall be lawful for such licensee, and he is hereby required, to sell and convey his undertaking.

Assessment and allocation of purchase money.

24. In the event of the proprietor or proprietors of any telegraph line and the Colonial Government being unable to agree with respect to the amount of compensation to be paid to them for their undertaking, the parties may have such amount settled in manner provided by The Lands Clauses Consolidation Law, 1872; and in every case in which the proprietor or proprietors of any telegraph line shall neglect or fail to assure, or to procure all other necessary and proper parties to concur in assuring, to the Colonial Government, free from all mortgage and other debts, any undertaking which shall have been purchased by the said Colonial Government under the provisions of this Act, it shall be lawful for the Colonial Government to deposit the purchase money which shall have been agreed or awarded to be paid in respect of such undertaking in the hands of the Master of the Supreme Court to the credit of such proprietor or proprietors, and thereupon such undertaking shall absolutely vest in the Colonial Government, free from all mortgage or other debts of such former proprietor or proprietors, and the moneys so deposited shall be dealt with in manner provided by the Lands Clauses Consolidation Law aforesaid.

Lease of telegraphs for private use.

25. The Postmaster-General may, by direction of the Minister, construct, let, and maintain telegraphs for private use, upon such terms as to charges for use and otherwise as the Minister may approve.

26. Save as hereinafter provided (a), telegrams for transmission by a Government telegraph shall be transmitted for all persons in regular succession, without delay, favour, or preference; and no persons shall be permitted to occupy any telegraph by sending messages or communications of unreasonable length, so as to impede the speedy transmission of other messages or communications.

Act 16, 1901.

Order of transmission of telegrams.

27. The Governor may nominate the officers who shall be empowered to send telegrams on the public service.

Officers who may send telegrams on public service.

28. Telegrams on the public service shall have priority over all other messages: Provided always that no private messages shall be suspended when in course of transmission except when specially directed by the officer requiring the said official message to be transmitted.

Priority of public service telegrams.

29. If any owner of land shall prove to the satisfaction of the Postmaster-General that he is obstructed in the free use of his land by reason of the insufficient height or depth of any Government telegraph, the General Manager of Telegraphs shall take such steps as he may deem necessary for giving relief to the said owner.

Obstruction of use of land by telegraphs.

30. Any person who shall wilfully in any way injure, disturb, obstruct, or interrupt the free use or working of any telegraph, or any works incidental thereto, or connected therewith, or shall wilfully attach any string, wire, or any conductor or other thing to any line of communication, or any part thereof, without the authority of the person in charge of such telegraph, or shall wrongfully and maliciously obstruct, hinder, or prevent the forming, constructing, completing, or maintaining any such line of communication, or any part thereof, shall, upon conviction, be liable to a penalty not exceeding Fifty Pounds Sterling, or to imprisonment, with or without hard labour, for any term not exceeding six months.

Penalty for injury, &c., to telegraph.

31. Any person who shall, without permission, enter a telegraph office, and refuse to quit the same when requested by the person in charge of such office, or shall wilfully obstruct or impede any officer or servant employed on any line of telegraph in the discharge of his or her duty, shall be liable to a fine not exceeding Five Pounds Sterling, or to imprisonment, with or without hard labour, for any term not exceeding one month.

Obstructing telegraph officers, trespassers, &c.

32. Any clerk or messenger who shall be employed in the working of any telegraph other than a private telegraph as hereinbefore defined, who shall fraudulently or maliciously secrete, make away with, alter, or omit to transmit any message which

Punishment for fraudulent conduct regarding telegrams.

(a) See sec. 28.

Act 16, 1901. he may have received for transmission or delivery ; or, not being a witness in a Court, shall divulge the contents of any message or despatch transmitted or conveyed or to be transmitted or conveyed, without the consent of the person sending or receiving such message or despatch, shall, upon conviction, be liable to a fine not exceeding One Hundred Pounds Sterling, or to be imprisoned, with or without hard labour, for any term not exceeding six months, or to both such fine and imprisonment.

Divulging contents of telegram.

Nothing in this section shall be deemed to require or authorise the disclosure by a witness in a Court of the contents of any telegram which would otherwise be the subject of any exemption or privilege on public grounds.

Fraudulent or false telegrams.

33. Any person who shall fraudulently or maliciously transmit, or cause to be transmitted any message or intelligence which he knows to be false, shall, upon conviction, be liable to a fine not exceeding One Hundred Pounds Sterling, or to be imprisoned, with or without hard labour, for any period not exceeding six months, or to both such fine and imprisonment.

Damage to telegraphs by carelessness.

34. Any person who shall by carelessness cause any damage to a telegraph shall, in addition to the value of such damage, be liable to a penalty not exceeding Ten Pounds Sterling.

Trial of offences: Suit for penalties.

35. All offences under this Act shall be cognizable in the Courts of Magistrates, or, in the discretion of the Attorney-General, may be tried upon indictment in the Supreme Court, or any penalty may be sued for by a civil action.

No fine or penalty imposed by a Magistrate shall exceed Twenty Pounds Sterling.

Saving of other liabilities.

36. No person shall by reason of a prosecution or suit for a penalty under this Act be exempt from any civil claim to which he would otherwise be liable.

Use of forms similar to those of the Department prohibited.

37. No person shall make, have, or use any envelope or other printed paper or stationery form so made, printed, or marked as to be a colourable imitation of or to resemble or pass for any of the envelopes or forms used by the Telegraph Department.

Every offence under this section shall be punishable by a fine not exceeding Five Pounds Sterling.

Incorporation of Telegraph Department with Postal Department.

38. The Public Department of Telegraphs shall be incorporated with and form a branch of the Postal Department of this Colony. The Postmaster-General shall exercise all the powers and authority heretofore vested in the General Manager of Telegraphs. This section shall not be deemed to affect the validity of any regulations under Section 1 of Law No. 8, 1890 (a).

(a) See tit. "POST OFFICE," Vol. 2.

Act No. 11, 1904.

“To amend the Telegraphs Act, 1901.”

[8th July, 1904.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. The Colonial Government shall have the sole and exclusive right to transmit telegrams from or to receive telegrams transmitted to, this Colony by sea or by land, by means of any agency other than a wire continuously connecting the points of transmission and reception.

Colonial Government's sole right to transmit or receive telegrams.

Such telegrams are hereinafter referred to as “wireless telegrams,” and shall not be deemed to be included amongst the telegrams which by sub-section (c) of section 5 of the Telegraphs Act, 1901, are excepted from the exclusive privileges of the Colonial Government.

2. No person shall, except on behalf of the Colonial Government, make, equip or use within this Colony any station, machine, installation or apparatus capable of being used for the purpose of transmitting or receiving wireless telegrams.

Penalty for contravention.

Any person contravening this section, and any person transmitting or receiving a wireless telegram contrary to the provisions of this Act, shall be liable to a fine not exceeding One Thousand Pounds Sterling, or to be imprisoned, with or without hard labour, for any term not exceeding five years, or to both such fine and imprisonment; and any building, station, machine, installation or apparatus unlawfully made, erected, or used for the purpose of transmitting or receiving wireless telegrams may be destroyed by order of the Government.

3. This Act shall be read and construed together with the Telegraphs Act, 1901, as one Act.

Construction of Law.

TOGT LABOUR.

[See “MUNICIPAL CORPORATIONS.”]

TOUTS.

[See “LABOUR TOUTS.”]

TOWNSHIPS.

[See “COMMONAGES.”]

TRAMWAYS AND ELECTRICITY (SUBURBAN).

Act No. 23, 1903.

“ To enable the Government of the Colony of Natal to enter into an Agreement with John William Sparks, Harry Sparks, John Thompson, Meyrick Bennett, William James Chapman, and John Henry Ernest Wall, providing for the laying down and working of an electric tramway from the terminus of the Borough Tramways at or near to the Old Toll Bar, Berea Road, Durban, to the Village of Sydenham, and also along the Government Main Road to a spot at or near the Umbilo Waterworks near Pinetown, and for generating and supplying the inhabitants in or about the Village of Sydenham aforesaid with electric light and electric power.”

[7th September, 1903.]

WHEREAS John William Sparks, Harry Sparks, John Thompson, Meyrick Bennett, William James Chapman, and John Henry Ernest Wall, all of Durban, in the Colony of Natal, are desirous of constructing a tramway for the conveyance of passengers, goods, and merchandise from a point in the Pietermaritzburg Public Main Road, on the Western Boundary of the Borough of Durban, and at or near to the Toll Bar Terminus of the Durban Borough Tramways, following and along the said Pietermaritzburg Public Main Road to its junction with the public Sydenham Road, and following along such Sydenham Road through the Village of Sydenham to the Boundary of the Clare Estate, in the County of Durban; and following on along the said Pietermaritzburg Public Main Road from its junction with the Sydenham Road aforesaid to a point at or near to the Umbilo Waterworks, near Pinetown, in the County of Durban, to be worked by means of electricity or other motive power:

AND WHEREAS the said promoters are also desirous of obtaining powers to generate electric current, and to transmit the same for the purposes of the said Tramway, or for the purposes of supplying such current for lighting or other purposes to the owners or occupiers of the lands adjacent or near to the said Tramway, and to transmit and supply the same for the purposes aforesaid elsewhere in the County of Durban:

AND WHEREAS it is expedient that such powers as aforesaid should be given:

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Natal, as follows :—

Act 23, 1903.

1. This Act may be cited as the "Sydenham Tramways, Lighting, and Electric Current Supply Act."

Short title.

2. In the interpretation of this Act, the word "Promoters" shall include the said John William Sparks, Harry Sparks, John Thompson, Meyrick Bennett, William James Chapman, and John Henry Ernest Wall, their heirs, and successors, and any Company or Corporation to which they may sell or transfer their undertaking, or the rights, privileges, and powers conferred upon them by this Act. The word "road" shall be taken to mean the whole space reserved as such road, and not only the hardened or formed portion thereof.

Definitions.

3. The Lands Clauses Consolidation Law, 1872, in so far as applicable, and save and except where varied by this Act, shall be incorporated with this Act.

Incorporation of Lands Clauses Law.

4. The Promoters are hereby authorised and empowered, subject to such terms as may be imposed by the Government in the contract referred to in Section 5 hereof, to construct, carry on, complete, and maintain the said Tramway, and to erect standards, posts, supports, or other requisite appliances, whether above or below the surface of the ground, for wires or cables, for transmitting electric current for the purposes of the said Tramway, or for the purpose of supplying the same for lighting and other purposes to the owners or occupiers of lands adjacent or near to the said Tramway, and to transmit and supply the same for the purposes aforesaid, and elsewhere in the County of Durban, according to the powers, rules, orders, and directions hereinafter set forth and expressed for that purpose.

Promoters authorised to carry out works.

5. The Promoters and the Government of Natal are hereby authorised to contract with each other for the purpose of the Promoters acquiring from the Government aforesaid, whether by way of letting, hiring, or granting, and upon such terms as may be mutually agreed upon, the following rights :

Authority to enter into contract with Government to acquire certain rights.

- (a) The right of constructing the said Tramway aforesaid along the hereinafter mentioned public roads ; and the right of working the same ;
- (b) The right of erecting or constructing and working standards, posts, supports, or other adequate appliances, whether above or below the surface of the ground, for wires or cables on and along the hereinafter mentioned public roads, for the purpose of transmitting or carrying electric current, together with the right of working or transmitting along

Act 23, 1903.

such wires or cables electric current for lighting or other purposes ;

- (c) The right of erecting or constructing and working standards, posts, supports, or other adequate appliances, whether above or below the surface of the ground, for wires or cables for the purpose of transmitting electric current, together with the right of working or transmitting along such wires or cables electric current for lighting or other purposes.

Extension of wires.

6. The Promoters shall not extend the wires and cables aforesaid beyond one mile from the route of the said tramway, unless at the written request of two-thirds of the occupiers of the lands which will be affected by such extension : Provided that the consent of the Governor in Council shall be necessary to any such extension.

Construction of tramway.

7. The Promoters shall be, and they are hereby authorised and empowered, subject to such terms as may be imposed by the Government in the Contract referred to in Section 5 hereof, by themselves or their deputies, agents, officers, employees or workmen, to construct, carry on, complete and maintain a tramway in a proper and workmanlike manner, and with all conveniences adjoining thereto or connected therewith for the passage thereon of cars and other carriages to be propelled by electric or other motive power along the hereinafter mentioned public roads from a point in the Pietermaritzburg Public Main Road, on the Western Boundary of the Borough of Durban, and at or near to the Toll Bar Terminus of the Durban Borough Tramways, following along the said Pietermaritzburg Public Main Road to its junction with the public Sydenham Road, and following along such Sydenham Road through the Village of Sydenham to the boundary of the Clare Estate, in the County of Durban ; and following along the said Pietermaritzburg Public Main Road from its junction with the Sydenham Road aforesaid to a point at or near to the Umbilo Waterworks, near Pinetown, in the County of Durban, as the same is shown in the Plan thereof filed with the Clerk of the Legislative Council and the Clerk of the Legislative Assembly.

Route.

Construction of electric current works.

8. The Promoters shall be, and they are hereby, authorised and empowered, by themselves or by their deputies, agents, officers, employees, or workmen, to erect or construct standards, posts, supports, or other adequate appliances, whether above or below the surface of the ground, for wires or cables on and along the hereinbefore mentioned public roads, for the purpose of transmitting electric current, together with the right of

working or transmitting along such wires or cables electric current for lighting or other purposes, and, further, to erect or construct standards, posts, supports, or other adequate appliances, whether above or below the surface of the ground, for wires or cables, for the purpose of transmitting electric current, together with the right of working or transmitting along such wires or cables electric current for lighting or other purposes.

Act 23, 1903.

9. The Promoters, for the purpose of carrying out any of the works authorised by this Act, shall have the right to enter upon the public roads as aforesaid and break up the same for the purpose of laying down the said Tramway, or standards, posts, supports, or other adequate appliances: Provided that, prior to such entry, the said Promoters shall give at least seven days' notice, in writing, to the Minister of Lands and Works for the time being, notifying their intention of so entering upon the public road aforesaid, and all Tramways, or standards, posts, supports, or other adequate appliances, shall be laid down as speedily as possible and with as little detriment or inconvenience to the public as circumstances admit, and the road restored to the same condition in which it was before the said works were made. And any excavations made in the roadway shall be properly fenced in and protected, and lighted at night, and the Promoters shall be responsible for any damage to person or property arising from the making of such excavations, and not arising from the negligence of the person injured.

Authority to enter upon public roads, and break up same for tramway purposes.

10. The Tramway hereby authorised shall be made upon the same gauge as is adopted in the electric tramway system of the Borough of Durban, and shall be laid down and maintained in such manner that the uppermost surface of the rails shall be on a level with the surface of the road. Such Tramway shall be laid down upon such side or part of the public roadways as may be approved by the Government of Natal.

Gauge of tramway.

11. The said Tramway shall not be open for public traffic until the same shall have been certified to be fit for such traffic by an Engineer to be appointed by the Governor in Council.

Engineer's certificate prior to opening.

12. The Promoters may carry passengers, parcels, goods, and merchandise upon such Tramways, but subject to the power of the Governor in Council to cancel the right of carrying goods and merchandise by Proclamation in the *Natal Government Gazette*, after giving six months' notice of such intention: Provided that such notice shall not take effect earlier than five years from the date of the promulgation of this Act.

Carrying of passengers, &c.

13. The Promoters may levy tolls and charges for the conveyance of passengers, which shall not exceed Twopence (2d.) per mile or fraction of a mile: Provided that, if the route

Tolls and charges.

Act 23, 1903. be laid off in stages, then the passenger fare for a stage may be computed at One Penny (1d.) if the stage does not exceed one-third of a mile, at Three Half-pence (1½d.) if the stage is over one-third of a mile, but does not exceed two-thirds of a mile, and at Twopence (2d.) if the stage is over two-thirds of a mile, and does not exceed one mile. The rates, tolls, and charges for the conveyance of parcels, goods, and merchandise shall be made according to a tariff to be approved of by the Governor in Council: Provided further that the Governor in Council may, from time to time, revise, and, if necessary, reduce or increase the said tolls and charges, and also with power to the Governor in Council, from time to time, to revise and reduce the tolls and charges to be made for the conveyance of passengers. A list of all tolls and charges shall be exhibited in a conspicuous place inside and outside each of the cars or carriages used on the said Tramway.

Style of cars and carriages.

14. The Promoters may use on the Tramways authorised by this Act cars or carriages with flanged or other wheels suitable to run on the prescribed rails, and, subject to the provisions of this Act, the Promoters shall have the exclusive use of the said Tramway. No car or carriage used on the Tramway shall extend beyond the outer copes of the wheels of such car or carriage more than twenty inches on each side.

Motive power.

15. The cars, carriages, or other vehicles used on the said Tramway may be propelled by electricity or such other motive power as may be approved by the Governor in Council.

Charge for electric current.

16. Subject to the acquisition of powers from the said Government in terms of this Act, the Promoters shall have the right to contract with the owners or occupiers of land in the County of Durban for the supplying of electric current, and to charge and demand from any such person or persons so contracting, rates and charges not exceeding those set forth in the schedule hereto annexed marked "A": Provided that the Governor in Council shall have the power from time to time to revise, and, if necessary, reduce such rates and charges.

By-laws.

17. The Promoters may make By-laws, and, from time to time, alter and repeal same, with respect to:

- (a) The regulation of the traffic on the said Tramways, including the regulation of speed;
- (b) The charges to be made to persons requiring to be supplied with electric current;
- (c) The interference with or obstruction by any person of any of the works authorised under this Act;
- (d) The prevention of the commission of any nuisance in

or upon any car or carriage, or in or against any premises belonging to the said Promoters and for regulating the travelling in or upon any car or carriage belonging to them ; Act 23, 1903.

- (e) The prohibiting of any person using the Tramway or any portion thereof unless duly authorised by the Promoters ;
- (f) The general management and control of the said Tramway.

Any such By-laws may impose reasonable penalties for offences against the same not exceeding 40s. for each offence, with or without further penalties for continuing offences not exceeding 10s. for each day during which the offence continues. All tolls, penalties, and charges made under this Act, or made under any By-law made in pursuance of this Act, may be proceeded for in any Court of competent jurisdiction in this Colony. No such By-law shall become operative until the same shall have received the sanction of the Governor in Council and shall have been promulgated in the *Natal Government Gazette*, or in such other manner as the Governor in Council may direct. Penalties

18. Subject to the sanction of the Governor in Council, the said John William Sparks, Harry Sparks, John Thompson, Meyrick Bennett, William James Chapman, and John Henry Ernest Wall shall have the right and power to sell to any public Company or Corporation, all their rights, privileges, and powers under this Act, and upon such sanction being given, all such rights and privileges vested in them shall be transferred to and vested in the said public Company or Corporation, which public Company or Corporation shall *ipso facto* be deemed to have taken over all the obligations and liabilities of the said John William Sparks, Harry Sparks, John Thompson, Meyrick Bennett, William James Chapman, and John Henry Ernest Wall. Promoters may dispose of rights, &c.

19. Subject to the acquisition of rights from the Government aforesaid, the Promoters shall be entitled to erect standards, posts, supports, and construct other adequate appliances, whether above or below the surface of the road, for wires or cables on and along any such by-roads, private roads, or rights-of-way, for the purpose of transmitting electric current, together with the right of working or transmitting along such wires or cables electric current for lighting or other purposes. Works for electric current.

20. The Promoters, subject to the acquisition of rights from the Government as aforesaid, shall have the right to purchase or take such lands as may be necessary for the purposes of constructing the said Tramways, or for the carrying out and Expropriation of lands.

Act 23, 1903. completion of any of the works under and by virtue of the powers and privileges granted to them by this Act: Provided that, if the taking of any such lands shall cause damage to any person or his property, such person shall be entitled to compensation or recompense, to be settled in case of difference as if the claim constituted damage to land within the meaning of the 65th Section of the Lands Clauses Consolidation Law.

Height of wires.

21. Every electric cable, wire or attachment of any such cable or wire which shall be carried along or across any by-road, private road, or right-of-way, in the case of the same being above the surface of the earth, shall be placed at least eighteen feet from the ground: Provided also that free use or enjoyment of any private right-of-way or road across which any such line of communication shall be carried shall not be hindered or obstructed.

Standards, &c. not to be a danger.

22. In all cases, all standards, posts, supports, or other adequate appliances for wires or cables used for the purpose of transmitting electric current, whether above or below the surface of the road, or electric light wires, shall be erected and maintained so as not to cause any danger to any person using the private roads, by-roads, or rights-of-way.

Penalty for injury.

23. Any person convicted of wilfully or negligently injuring any portion of the Promoter's property, or any of the works authorised by this Act, shall be liable to a penalty for each offence not exceeding Ten Pounds, or, in default, imprisonment, with or without hard labour, for any period not exceeding one month.

Liability of promoters for accidents, &c.

24. The Promoters shall be answerable for all accidents, damages, and injuries happening through their act or default, or through the act or default of any person in their employment, by reason or in consequence of their works, cars, or carriages, and for all damage done by electrolysis or otherwise resulting from electric leakage, and shall save harmless all road and other authorities, companies, or bodies, collectively or individually, and their officers and servants, from all damages and costs in respect of such damages, accidents, and injuries.

Regulations for safety of Public.

25. The Governor in Council may from time to time make such regulations, in accordance with the regulations for the time being of the Board of Trade of the United Kingdom applicable to Local Authorities or Municipalities, subject to such modifications as he may think expedient, but in no case more stringent, for securing the safety of the public from personal injury, or from fire or otherwise, and for minimising, as far as may be reasonable, any interference with the electric wires, lines, and apparatus of the Government, or any other authority, company or person, and

may from time to time rescind, alter, or repeal such regulations. **Act 23, 1903.** Any regulations so made or amended by the Governor in Council, in pursuance of this Section, shall have the like effect in every respect as if they had been included in this Act. Notice in writing shall be given by the Government to the Promoters of any such regulations, or of any repeal or alteration thereof, at least a month before the regulation, repeal, or alteration is made by the Governor in Council.

26. No person shall be entitled to carry or to require to be carried on any Tramway any goods which may be of a dangerous nature; and if any person send by any Tramway any such goods, without distinctly marking their nature on the outside of the package containing the same, or otherwise giving notice in writing to the bookkeeper or other servant of the Promoters with whom the same are left at the time of such sending, he shall be liable to a penalty not exceeding Twenty Pounds for every such offence; and it shall be lawful for the Promoters to refuse to take any parcel that they may suspect to contain goods of a dangerous nature, or require the same to be opened to ascertain the fact. **Dangerous goods not to be carried.**

27. If any person travelling or having travelled in any carriage or any Tramway avoids or attempts to avoid payment of his fare, or if any person having paid his fare for a certain distance knowingly and wilfully proceeds in any such carriage beyond such distance, and refuses to pay the additional fare for the additional distance, or attempts to avoid payment thereof, or if any person knowingly and wilfully refuses or neglects, on arriving at the point to which he has paid his fare, to quit such carriage, every person shall for every such offence be liable to a penalty not exceeding Forty Shillings. **Non-payment of fare.**

28. Nothing in this Act or in any By-law made under this Act shall take away or abridge the right of the public to pass along or across every or any part of any road along or across which any Tramway is laid, whether on or off the Tramway, with carriages not having flange wheels, or wheels suitable only to run on the rails of the Tramway. **Rights of Public not to be abridged.**

29. Notwithstanding anything in this Act contained, the Promoters shall not acquire, or be deemed to acquire, any right other than that of user in any road along, over, or across which they may erect any posts, standards, or supports, or other adequate appliances for carrying their wires or cables, nor shall anything in this Act contained take away or affect any power which the Government or the owners, commissioners, undertakers, or lessees of any Railway or Tramway may have by Law to widen, alter, or divert or improve any such Railway or Tramway. **Ownership of road not to be affected.**

Act 23, 1903.

Powers of Government or Local authority to break up roads, &c., not to be affected.

30. Nothing in this Act shall take away or abridge any power at present, or which may be hereafter, vested in the Government of Natal, or any Local Board or Authority for any purpose required by the said Government, or for which said Local Board or Authority is constituted, or by any company, body, or person to open or to break up any road along, or across which any Tramway may be laid, or electric posts, standards, or wires may be erected for the purpose of laying down, repairing, altering, or removing any pipes for the supply of gas or water, or any tubes, wires, or apparatus for telegraphic or other purposes, or any other purpose whatsoever; but, in the exercise of any such power, the Government, Local Board, company, body, or person shall be subject to the following restrictions:—

- (a) They shall cause as little detriment or inconvenience to the Promoters as circumstances permit;
- (b) Before they commence any work, they shall give to the Promoters notice of their intention to commence such work, specifying the time at which they shall do so, such notice to be given twenty-four hours at least before the commencement of the work.

Cost of works, revenue, &c.

31. The Promoters shall be bound, if required, to furnish the Governor in Council with full particulars as to the cost of construction of the works authorised under this Act, and also of the revenue and expenditure of the same from time to time.

Governor in Council or Local authority empowered to purchase works, &c., after 21 years.

32. The Governor in Council, or any Municipal Corporation, Local Board, or other Local Authority, which may hereafter have jurisdiction over the lands served by the said Tramway shall be empowered, subject to the approval of Parliament, at any time after the expiry of twenty-one years from the date of this Act coming into force and after giving not less than six months' notice, to purchase and take the whole of the works authorised by this Act, and the Promoters shall be required to sell, transfer, and hand over to the Colonial Government, or any such Corporation, Board, or Authority the works so purchased, and the purchase price shall be paid to the Promoters. Any such purchase shall be effected according to the provisions of the Law No. 16 of 1872: Provided

- (a) That the purchase price shall be determined according to the value of the works at the time of purchase, without any addition in respect of compulsory purchase, statutory rights, goodwill, or profits, save as is provided in Subsection (b); and
- (b) That there shall be added to the value ascertained as

aforesaid, an amount equal to 10 per cent. on the value ascertained as aforesaid. **Act 23, 1903.**

33. Nothing in this Act shall be deemed to create a monopoly in favour of the Promoters. **No monopoly.**

34. In the event of the Borough of Durban at any time being extended so as to include all or any portion of the route of such tramway, or should any Municipal Corporation, Township, or other Local Authority, be established on any portion traversed by such route, then the Promoters shall be bound to observe and conform to any By-laws or regulations enforced by such Borough, Township, or Local Authority. **Durban Borough By-laws.**

35. This Act shall lapse if the construction of the said Tramway, so far as concerns the portion to be laid along and following the said Sydenham Road, shall not be commenced within twelve months from the promulgation hereof in the *Natal Government Gazette*, or if the construction of such Tramway shall not be completed within three years of the said promulgation, and should the Promoters not commence the construction of the said Tramway along the Pietermaritzburg Main Public Road to a point near the Umbilo Waterworks within five years of the date of promulgation hereof, or not completing such Tramway within seven years of the date hereof, then this Act shall lapse so far as concerns the said Tramway along the Pietermaritzburg Main Public Road to a point near the Umbilo Waterworks. **Act to lapse under certain conditions.**

36. If any ocean cable, or the land lines connected therewith subsidised by the Government of Natal, is at any time in any way injuriously affected by the construction by the Promoters of their electric lines and works, or by the working of the undertaking of the Promoters, the Promoters shall pay the expenses of all such alterations in or additions to such cable and land lines as may be necessary to remedy such injurious affection. For the purpose of this section, a cable or land line subsidised by the Natal Government shall be deemed to be injuriously affected by an act or work if telegraphic communication by means of such cable is, whether through induction or otherwise, in any manner affected by an act or work, or by any use made of such work. **Injury to ocean cable or land line subsidised by Government.**

37. This Act shall come into force upon and after the promulgation of same in the *Natal Government Gazette*. **Commencement.**

Act 23, 1903.

SCHEDULE "A."

Current for Lighting Purposes.

	s.	d.
For consumers burning under two units per lamp installed per month	1.	0 per unit.
For consumers burning over two units per lamp installed per month	0.10	per unit.
For large consumers of 500 units and upwards, per month	0.10	per unit.

(With rebate of 5 per cent. as discount.)

For consumers of 1,000 units and upwards, per month	0.10	per unit.
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(With a rebate of 10 per cent. discount.)

Minimum charge to all consumers, except Churches, 10s. per month for each installation.

Current for Power Purposes.

Conditional on motors not being used between the hours of 5 p.m. and 9 p.m. of each and every day, except by permission of the Company's Engineers, or except when current is measured by separate meter:—

	d.
For each unit consumed up to 100 units, per one-horse power, per month	7 per unit.
For each unit consumed over 100 units, per horse power, up to 200 units	6 per unit.
For each unit consumed above 200 units, per horse power, per month	5 per unit.

Act No. 6, 1905.

"To authorise the construction of a Tramway from the Northern Boundary of the Town Lands of the Borough of Durban to a point on the Prospect Hall Estate, in the County of Victoria, with powers to generate electric current and to transmit the same either along the route of the said tramway or elsewhere in the County of Victoria."

[12th June, 1905.]

WHEREAS Cecil Francis Parr, of No. 4, Bartholomew Lane, in the City of London, Gentleman, is desirous of constructing a Tramway for the conveyance of passengers, goods, and other

things from the Northern Boundary of the Borough of Durban to the Prospect Hall Estate aforesaid, to be worked by means of electricity or other power :

Act 6, 1905.

AND WHEREAS the said Promoter is also desirous of obtaining powers to generate electric current, and to transmit the same for the purposes of the said Tramway and for other purposes, and to transmit and supply the same elsewhere in the County of Victoria :

AND WHEREAS it is expedient that such powers should be given :

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. In the interpretation of this Act, the word " Promoter " shall include the said Cecil Francis Parr, his heirs and successors, and any person, company or corporation to which he may sell or transfer the rights, privileges and powers conferred by this Act.

Definitions.

The word " road " shall be taken to mean the whole space reserved as such road and not only the hardened or formed portion thereof.

2. The Lands Clauses Consolidation Law, 1872, in so far as applicable, and save and except where varied by this Act, shall be incorporated with this Act.

Incorporation of Lands Clauses Law.

3. The Promoter is hereby authorised and empowered, subject to such terms as may be imposed by the Government in the contract referred to in Section 4 hereof, to construct, carry on, complete and maintain the said Tramway, and to erect bridges, including a bridge over the River Umgeni, standards, posts, supports, or other requisite appliances, whether above or below the surface of the ground, for wires or cables for transmitting electric current for the purposes of the said Tramway, or for the purpose of supplying the same for lighting and other purposes to the owners or occupiers of lands adjacent or near to the said Tramway, and to transmit and supply the same for the purposes aforesaid and elsewhere in the County of Victoria, according to the powers, rules, orders, and directions hereinafter set forth and expressed for that purpose.

Promoters authorised to carry out work.

4. The Promoter and the Government of Natal are hereby authorised to contract with each other for the purpose of the Promoter acquiring from the Government aforesaid whether by way of letting, hiring, or granting, and upon such terms as may be mutually agreed upon, the following rights :—

Authority to enter into contract with Government to acquire certain rights.

(a) The right of constructing the said Tramway across

Act 6, 1905.

the River Umgeni and along the hereinafter mentioned route, and of working the same:

- (b) The right of erecting or constructing and working bridges, standards, posts, supports, or other adequate appliances, whether above or below the surface of the ground, for laying and using wires or cables on and along the hereinafter mentioned route, for the purpose of transmitting or carrying electric current, together with the right of working or transmitting along such wires or cables electric current for lighting or other purposes;
- (c) The right of erecting or constructing and working bridges, standards, posts, supports, or other adequate appliances, whether above or below the surface of the ground for laying and using wires or cables for the purpose of transmitting electric current, together with the right of working or transmitting along such wires or cables electric current for lighting or other purposes.

Extension of wires.

5. The Promoter shall not extend the wires and cables aforesaid beyond one mile from the route of the said Tramway, unless at the written request of two-thirds of the occupiers of the lands which will be affected by such extension: Provided that the consent of the Governor in Council shall be necessary to any such extension.

Construction of Tramway

6. The Promoter shall be, and he is hereby authorised and empowered, subject to such terms as may be imposed by the Government in the contract referred to in Section 4 hereof, by himself or his deputies, agents, officers, employees or workmen, to construct a bridge over the River Umgeni, and to construct, carry on, complete and maintain a tramway in a proper and workmanlike manner, and with all conveniences adjoining thereto or connected therewith for the passage thereon of cars and other carriages to be propelled by electric or other power along the route from a point on the south bank of the River Umgeni, being the northern boundary of the Borough of Durban, across the River Umgeni and thence along the road which crosses the lands intervening between the River Umgeni and the Prospect Hall Estate, as shown in the plan filed with the Clerk of the Legislative Council and the Clerk of the Legislative Assembly.

Route.

Construction of Electric Current Works.

7. The Promoter shall be and is hereby authorised and empowered, by himself, or by his deputies, agents, officers, employees or workmen, to erect or construct standards, posts, supports, or other adequate appliances, whether above or below the surface of the ground, for wires or cables on and along the

hereinbefore mentioned route, for the purpose of transmitting electric current, with the right of working or transmitting along such wires or cables electric current for lighting or other purposes, and further to erect or construct standards, posts, supports, or other adequate appliances whether above or below the surface of the ground, for wires or cables, for the purpose of transmitting electric current, with the right of working or transmitting along such wires or cables electric current for lighting or other purposes.

Act 6, 1905.

8. The Promoter, for the purpose of carrying out any of the works authorised by this Act, shall have the right to enter upon any roads and break up the same for the purpose of laying down the said tramway or standards, posts, supports or other adequate appliances: Provided that, prior to such entry, the said Promoter shall give at least seven days' notice, in writing, to the Government, notifying his intention of so entering, and all tramways or standards, posts, supports or other adequate appliances, shall be laid down as speedily as possible, and with as little detriment or inconvenience to the public as circumstances admit, and the road restored to the same condition in which it was before the said works were made. And any excavations made in the roadway shall be properly fenced in and protected, and lighted at night, and the Promoter shall be responsible for any damage to person or property arising from the making of such excavations, and not arising from the negligence of the person injured.

Authority to enter roads and break up same for tramway purposes

9. The Tramway hereby authorised shall be made upon the same gauge as is adopted in the electric tramway system of the Borough of Durban, and shall be laid down and maintained in such manner that the uppermost surface of the rails shall be on a level with the surface of the road. Such tramway shall be laid down upon such side or part of any public roadways as may be approved by the Government of Natal.

Gauge of tramway.

10. The Tramway shall not be open for public traffic until the same shall have been certified to be fit for such traffic by an Engineer to be appointed by the Governor in Council.

Engineer's certificate prior to opening.

11. The Promoter may carry passengers, parcels, goods, and merchandise, and other things upon such tramways, but subject to the power of the Governor in Council to cancel the right of carrying goods and merchandise by Proclamation in the *Natal Government Gazette*, after giving six months' notice of such intention: Provided that such notice shall not take effect earlier than five years from the date of the promulgation of this Act.

Carrying of passengers, &c.

12. The Promoter may levy tolls and charges for the conveyance of passengers, which shall not exceed Twopence (2d.)

Tolls and charges.

Act 6, 1905. per mile or fraction of a mile: Provided that if the route be laid off in stages, then the passenger fare for a stage may be computed at One Penny (1d.) if the stage does not exceed one-third of a mile, at Three Halfpence (1½d.) if the stage is over one-third of a mile but does not exceed two-thirds of a mile, and at Twopence (2d.) if the stage is over two-thirds of a mile and does not exceed one mile. The rates, tolls, and charges for the conveyance of parcels, goods, and merchandise shall be made according to a tariff to be approved of by the Governor in Council: Provided further that the Governor in Council may, from time to time, revise, and, if necessary, reduce or increase the said tolls and charges, and also with power to the Governor in Council from time to time to revise and reduce the tolls and charges to be made for the conveyance of passengers.

A list of all tolls and charges shall be exhibited in a conspicuous place upon each of the cars or carriages used on the tramway.

Style of cars
and carriages.

13. The Promoter may use on the Tramways authorised by this Act, cars or carriages with flanged or other wheels suitable to run on the prescribed rails, and subject to the provisions of this Act, the Promoter shall have the exclusive use of the said Tramway.

No car or carriage used on the Tramway shall extend beyond the outer copes of the wheels of such car or carriage more than twenty inches on each side.

Motive power.

14. The vehicles used on the said Tramway may be propelled by electricity or such other motive power as may be approved by the Governor in Council.

Charge for
electric
current

15. Subject to the acquisition of powers from the said Government in terms of this Act, the Promoter shall have the right to contract with the owners or occupiers of land in the County of Victoria for the supply of electric current, and to charge and demand from any such person or persons so contracting, rates and charges not exceeding those set forth in the schedule hereto annexed marked "A": Provided that the Governor in Council shall have the power from time to time to revise, and, if necessary, reduce such rates and charges.

By-laws.

16. The Promoter may make By-laws, and, from time to time, alter and repeal same, with respect to:—

- (a) The regulation of the traffic on the Tramways, including the regulation of speed:
- (b) The charges to be made to persons requiring to be supplied with electric current:
- (c) The interference with or obstruction by any person of any of the works authorised under this Act:

- (d) The prevention of the commission of any nuisance in or upon any car or carriage, or in or against any premises belonging to the Promoter, and for regulating the travelling in or upon any car or carriage belonging to him : **Act 6, 1905.**
- (e) The prohibiting of any person using the Tramway or any portion thereof unless duly authorised by the Promoter :
- (f) The general management and control of the Tramway.

Any such By-laws may impose reasonable penalties for offences against the same not exceeding 40s. for each offence, with or without further penalties for continuing offences not exceeding 10s. for each day during which the offence continues. All tolls, penalties, and charges made under this Act or made under any By-law made in pursuance of this Act may be recovered in any Court of competent jurisdiction in this Colony. **Penalties.**

No such By-laws shall become operative until the same shall have received the sanction of the Governor in Council and shall have been promulgated in the *Natal Government Gazette*, or in such other manner as the Governor in Council may direct.

17. Subject to the sanction of the Governor in Council, the said Cecil Francis Parr shall have the right to sell to any person, company, or corporation, all his rights, privileges and powers under this Act, and upon such sanction being given, all such rights and privileges vested in him shall be transferred to and vested in the said person, company, or corporation, who shall *ipso facto* be deemed to have taken over all the obligations and liabilities of the said Cecil Francis Parr. **Promoter may dispose of rights, &c.**

18. Subject to the acquisition of rights from the Government, the Promoter shall be entitled to erect standards, posts, supports, and construct other adequate appliances, whether above or below the surface of the road, for wires or cables on and along any such by-roads, private roads, or rights-of-way, for the purpose of transmitting electric current, together with the right of working or transmitting along such wires or cables electric current for lighting or other purposes. **Works for electric current.**

19. The Promoter shall have the right to purchase or take such lands as may be necessary for the purpose of constructing the said Tramway or for the carrying out and completion of any of the works contemplated by this Act: Provided that if the taking of any such lands shall cause damage to any person or his property such person shall be entitled to compensation or recompense, to be settled in case of difference as if the claim constituted damage to land within the meaning of the 65th Section of the Lands Clauses Consolidation Law, 1872. **Expropriation of lands.**

Act 6, 1905.

Height of wires.

20. Every electric cable, wire or attachment of any such cable or wire which shall be carried along or across any by-road, private road, or right-of-way, in the case of the same being above the surface of the earth, shall be placed at least eighteen feet from the ground: Provided that free use or enjoyment of any private right-of-way or road across which any such line of communication shall be carried shall not be hindered or obstructed.

Standards, &c., not to be a danger.

21. In all cases, all standards, posts, supports, or other adequate appliances for wires or cables used for the purpose of transmitting electric current, whether above or below the surface of the road, or electric light wires, shall be erected and maintained not to cause any danger to any person using the private roads, by-roads, or rights-of-way.

Penalty for injury.

22. Any person convicted of wilfully or negligently injuring any of the works authorised by this Act, or any of the cars, carriages, or other vehicles or property used in connection therewith, shall be liable to a penalty for each offence not exceeding Ten Pounds, or, in default, imprisonment, with or without hard labour, for any period not exceeding one month.

Liability of promoter for accidents, &c.

23. The Promoter shall be answerable for all accidents, damages, and injuries happening through his act or default, or through the act or default of any person in his employment, by reason or in consequence of his works, cars or carriages, and for all damage done by electrolysis, or otherwise resulting from electric leakage, and shall save harmless all road and other authorities, companies, or bodies, collectively or individually, and their officers and servants, from all damages and costs in respect of such damages, accidents, and injuries.

Injury to ocean cable or land line subsidised by Government.

24. If any ocean cable or the land lines connected therewith, subsidised by the Government of Natal, is at any time in any way injuriously affected by the construction by the Promoter, his heirs, executors, or assigns, of his electric lines and works, or by the working of the undertaking of the Promoter, his heirs, executors, or assigns, the Promoter, his heirs, executors, or assigns, shall pay the expenses of all such alterations in or additions to such cable and land lines as may be necessary to remedy such injurious affection. For the purpose of this section a cable subsidised by the Natal Government shall be deemed to be injuriously affected by an act or work if telegraphic communication by means of such cable is, whether through induction or otherwise in any manner, affected by such act or work, or by any use made of such work.

Regulations for safety of public.

25. The Governor in Council may from time to time make such regulations, in accordance with the regulations for the time being of the Board of Trade of the United Kingdom applicable

to Local Authorities or Municipalities, subject to such modifications as he may think expedient, but in no case more stringent, for securing the safety of the public from personal injury, or from fire or otherwise, and for minimising as far as may be reasonable, any interference with the electric wires, lines, and apparatus of the Government, or any other authority, company, or person, and may from time to time, rescind, alter, or repeal such regulations. Any regulations so made or amended by the Governor in Council in pursuance of this section, shall have the like effect in every respect as if they had been included in this Act. Notice in writing shall be given by the Government to the Promoter of any such regulations, or of any repeal or alteration thereof, at least a month before the regulation, repeal, or alteration is made by the Governor in Council.

Act 6, 1905.

26. No person shall be entitled to carry or to require to be carried on any tramway any goods which may be of a dangerous nature, and if any person send by any tramway any such goods, without distinctly marking their nature on the outside of the package containing the same, or otherwise giving notice in writing to the bookkeeper or other servant of the Promoter with whom the same are left at the time of such sending, he shall be liable to a penalty not exceeding Twenty Pounds for every such offence; and it shall be lawful for the Promoter to refuse to take any parcel that he may suspect to contain goods of a dangerous nature, or he may require the same to be opened to ascertain the fact.

Dangerous goods not to be carried.

27. If any person travelling or having travelled in any carriage on any tramway avoids or attempts to avoid payment of his fare, or if any person having paid his fare for a certain distance knowingly and wilfully proceeds in any such carriage beyond such distance, and refuses to pay the additional fare for the additional distance, or attempts to avoid payment thereof, or if any person knowingly and wilfully refuses or neglects, on arriving at the point to which he has paid his fare, to quit such carriage, he shall for every such offence be liable to a penalty not exceeding Forty Shillings.

Non-payment of fare.

28. Nothing in this Act or in any By-law made under this Act shall take away or abridge the right of the public to pass along or across every or any part of any road along or across which any tramway is laid, whether on or off the tramway, with carriages not having flange wheels, or wheels suitable only to run on the rails of the tramway.

Rights of public not to be abridged.

29. Notwithstanding anything in this Act contained, the Promoter shall not acquire or be deemed to acquire any right other than that of user in any road along, over, or across which

Ownership of roads not to be affected.

Act 6, 1905.

he may erect any posts, standards, or supports, or other adequate appliances for carrying his wires and cables, nor shall anything in this Act contained take away or affect any power which the Government or the owners, commissioners, undertakers, or lessees of any railway or tramway may have by law to widen, alter, or divert or improve any such railway or tramway.

Powers of Government or Local Authority to break up roads, &c., not to be affected.

30. Nothing in this Act shall take away or abridge any power at present, or which may be hereafter, vested in the Government of Natal, or any Local Board or Authority, for any purpose required by the said Government, or for which said Local Board or Authority is constituted, or by any company, body, or person to open, or to break up any road along or across which any tramway may be laid, or electric posts, standards, or wires may be erected for the purpose of laying down, repairing, altering, or removing any pipes for the supply of gas or water, or any tubes, wires, or apparatus for telegraphs or other purposes, or any other purposes whatsoever; but in the exercise of any such power the Government, Local Board, company, body, or person shall be subject to the following restrictions:—

- (a) They shall cause as little detriment or inconvenience to the Promoter as circumstances permit.
- (b) Before they commence any work they shall give to the Promoter notice of their intention to commence such work, specifying the time at which they shall do so, such notice to be given twenty-four hours at least before the commencement of the work.

Cost of works, revenue, &c.

31. The Promoter shall be bound, if required, to furnish the Governor in Council with full particulars as to the cost of construction of the works authorised under this Act, and also of the revenue and expenditure of the same from time to time.

Governor in Council or Local Authority empowered to purchase works, &c., after 21 years.

32. The Governor in Council, or any Municipal Corporation, Local Board, or other Local Authority, which may hereafter have jurisdiction over the lands served by the said tramway, shall be empowered, subject to the approval of Parliament at any time after the expiry of twenty-one years from the date of this Act coming into force, and after giving not less than six months' notice, to purchase and take the whole of the works authorised by this Act, and the Promoter shall be required to sell, transfer, and hand over to the Colonial Government, or any such Corporation, Board, or Authority the works so purchased, and the purchase price shall be paid to the Promoter. Any such purchase shall be effected according to the provisions of Law No. 16 of 1872: Provided

- (a) That the purchase price shall be determined according to the value of the works at the time of purchase,

without any addition in respect of compulsory purchase, statutory rights, goodwill, or profits, save as is provided in Sub-section (b) of this section; and **Act 6, 1905.**

(b) That there shall be added to the value ascertained as aforesaid an amount equal to 10 per cent. on the value ascertained as aforesaid.

33. Nothing in this Act shall be deemed to create a monopoly in favour of the Promoter. **No monopoly.**

34. The Mayor and Councillors of the Borough of Durban are hereby authorised to contract with the Promoter for the construction by the Promoter of a line of tramway running from a point at or near the Umgeni Road to the River Umgeni as shown on the said plan. **Tramway from Umgeni Road to Umgeni River.**

35. In the event of the Borough of Durban at any time being extended so as to include all or any portion of the route of such tramway, or should any Municipal Corporation, township, or other Local Authority, be established on any portion traversed by such route, then the Promoter shall be bound to observe and conform to any By-laws or regulations enforced by such Borough, township, or Local Authority. **Durban Borough By-Laws.**

36. This Act shall lapse if the construction of the said Tramway shall not be commenced within three years from the promulgation thereof in the *Natal Government Gazette*, or if the construction of the said Tramway shall not be completed within five years of the said promulgation. **Act to lapse under certain conditions.**

37. This Act shall come into force upon and after the promulgation of same in the *Natal Government Gazette*. **Commencement.**

SCHEDULE "A."

CURRENT FOR LIGHTING PURPOSES.

	Per unit.
	s. d.
For Consumers burning under 2 units per lamp installed per month	1 0
For Consumers burning over 2 units per lamp installed per month... ..	0 10
For large Consumers of 500 units and upwards per month (with rebate of 5 per cent. as discount)	0 10
For Consumers of 1,000 units and upwards per month (with a rebate of 10 per cent. discount.)	0 10
Minimum charge to all Consumers, except Churches, 10s. per month for each installation.	

Act 6, 1905.

CURRENT FOR POWER PURPOSES.

Conditional on motors not being used between the hours of 5 p.m. and 9 p.m. of each and every day, except by permission of the company's engineers, or except when current is measured by separate meter :—

	Per unit.
	s. d.
For each unit consumed up to 100 units per one-horse power per month	0 7
For each unit consumed over 100 units per horse power up to 200 units	0 6
For each unit consumed above 200 units per horse power per month... ..	0 5

TRANSFER (LAND).

[See "REGISTRATION (DEEDS)."]

TRANSIT IMMIGRANTS.

[See "IMMIGRATION (RESTRICTED)."]

TRUSTEES.

[See "GOVERNMENT SECURITIES"; "PROBATE."]

TRUST FUNDS (INVESTMENT).

[See "GOVERNMENT SECURITIES."]

UNCLAIMED MONIES.

[See "COURTS (SUPREME)."]

VACCINATION.

The Vaccination Act, 1906.

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Act No. 24, 1906.

“To amend the Law relating to Vaccination.”

[2nd August, 1906.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Repeals.

1. The Vaccination Law, 1882, and Law No. 10, 1885, amending the same are hereby repealed, without prejudice to any obligation or liability in regard to, or to any appointment made or any thing done.

Notwithstanding such repeal, the regulations in force under the repealed laws shall, except where inconsistent with this Act, remain in force until regulations under this Act shall be passed in lieu thereof.

Short title.

2. This Act may be known as the Vaccination Act, 1906 (*a*).

(*a*) The following extract from the notes to “Chitty's Statutes,” under the title “VACCINATION,” may be of interest: “See this subject fully treated in the introduction to Fry's Vaccination Acts, published in 1875. From that introduction, it appears that the policy of the Acts is founded upon a succession of inquiries, the principal of which, instituted in 1856, was described in 1866 by Lord Aberdare, then Mr. Bruce, in the House of Commons as being as ‘exhaustive and complete as ingenuity could devise’—four questions having been referred ‘to all the medical societies in Europe, to all the principal foreign governments, and to 542 physicians of different countries, selected on account of their known eminence and experience.’ The answers were practically unanimous, that vaccination conferred a very large exemption from small-pox, and almost absolute security against death by that disease, that it did not endanger general health, and that it ought to be performed in early life. The subject, however, was in 1899 referred to a royal commission, of which Lord Herschell was chairman, in whose fifth interim report, presented in 1892, after

stating that 90 meetings had been held, and 135 witnesses examined, it was recommended that the imposition of repeated penalties for the non-vaccination of the same child should no longer be possible, and that persons imprisoned under the vaccination Acts should no longer be treated as criminals.”

For statistics in favour of re-vaccination at school age, &c., see letter of Mrs. Garrett Anderson, Hon. Sec. of Imperial Vaccination League, 53 Berners Street, London, W., in *Times* of September 15th, 1903, and see also letter to *The Times* of August 11th, 1902, to the same effect, signed on behalf of the same League by the late Archbishop of Canterbury, by the Bishop of London, the Dukes of Northumberland and Westminster, Lords Kelvin and Avebury, Sir Frederick Pollock, Sir James Crichton Browne, the Rev. H. Adler, Chief Rabbi, and others; while for the arguments against vaccination generally, see *Encyclopædia Britannica*, tit. “Vaccination,” and article by Mr. Wallace in the “Wonderful Century.” See the attitude of “Christian Scientists” and others discussed in 2 N.L.J., 125.

3. In this Act:—

Act 24, 1906.

“Parent” includes the father and mother of a legitimate child, and the mother of an illegitimate child.

Interpretation

“Guardian” means any person having the custody of a child.

“Child” means a person under the age of sixteen years; persons above that age are referred to as “Adults.”

“Native” means a member of the aboriginal races or tribes of Africa, south of the Equator.

“Prescribed” means prescribed by this Act, or the regulations made thereunder.

“Re-Vaccination” means a subsequent vaccination after a successful vaccination.

A person is deemed to be unvaccinated if he has not been, or fails to prove that he has been successfully vaccinated.

If any person is summoned or charged, or otherwise referred to in any process as a parent, guardian, or child, proof of any reasonable grounds for believing that such person is a parent, guardian, or child, as the case may be, within the meaning of this Act, shall be sufficient evidence of the fact, and it shall rest with the person summoned, charged or cited to prove the contrary.

In any case in which more persons than one stand in the relation of parent or guardian to a child, the obligations and liabilities imposed by this Act shall rest upon each of such persons.

4. This Act shall be administered by the Minister in charge of the Department of Public Health, who is hereinafter referred to as “the Minister.”

Administration of Act.

5. The Governor in Council may from time to time make and alter regulations (a) for the proper administration of this Act respecting:

Governor may make regulations.

- (a) the manner in which Vaccination shall be performed by District Vaccinators and Assistant Vaccinators, and the duties of such Vaccinators;
- (b) the times and places of attendance of District and Assistant Vaccinators, and public notification of such times and places, also times and places for inspection, and for ascertaining results of vaccination;
- (c) the boundaries of districts;

(a) See Government Notice No. 103, 1907, in *Gazette* of 19th February, 1907, where regulations made under this sec. are published.

Act 24, 1906.

- (d) the appointment and duties of registrars, inspectors, and other officials ;
- (e) the registration of successful Vaccinations, and of certificates of exemption, of insusceptibility, and of unfitness ;
- (f) the form of notices to be issued ;
- (g) the form of certificate to be employed and the returns to be made ;
- (h) reports to the Health Officer for the Colony by District Vaccinators or medical practitioners of particulars of all cases in which ill effects are alleged to have ensued on vaccination, and for due enquiry into such cases ;
- (i) the issue of Vaccine Lymph to medical practitioners ;
- (j) the amplification, explanation and communication to the different sections of the coloured population of the requirements of this Act, and the adaptation of the procedure to their special circumstances, and if necessary, modification of the age periods within which vaccination shall be obligatory ;
- (k) any thing deemed necessary for the better administration of the details of this Act.

District and assistant vaccinators.

6. The Minister may appoint fit and proper persons to be district vaccinators and assistant vaccinators for the purposes of this Act.

Officers.

7. District vaccinators and all other officers appointed for the purposes of this Act shall as such be officers of the Department of Public Health.

Child must be vaccinated within six months.

8. Every child born after the commencement of this Act shall be vaccinated as prescribed by this Act within six months after its birth.

Every child who, at the date of the commencement of this Act, is under the age of five years shall be vaccinated within four months from that date, unless within that time proof be shown to the satisfaction of the District Vaccinator that such child has already been vaccinated or has within the previous three years been certified to be insusceptible of vaccination.

Registrar of births to give notice requiring child to be vaccinated.

9. Every registrar of births shall within seven days after the registration of the birth of any child transmit to the parent or guardian, or person reporting the birth, a notice in the prescribed form calling upon the parent or guardian to have the child vaccinated, and informing him of the name and address of the District Vaccinator.

10. The parent or guardian of every child born in this Colony shall within six months after its birth, or, in the case of a child born before the commencement of this Act, within four months from the last-mentioned date, take it or cause it to be taken to the District Vaccinator or medical practitioner, and cause such child to be vaccinated in the prescribed manner.

Act 24, 1906.

Duty of parents and guardians.

The parent or guardian of every child shall in the same way cause such child to be re-vaccinated within six months after such child reaches the age of twelve years, or after receiving the custody of a child upwards of twelve years, who has not been so re-vaccinated.

Re-vaccination of children after the age of 12 years.

11. The parent or guardian of every child entering this Colony shall in the same way cause such child to be vaccinated or re-vaccinated within six months after its arrival, unless evidence can be produced to vaccinator of previous successful vaccination or re-vaccination.

Children entering the colony.

12. No parent or guardian of a child liable to vaccination under this Act shall be subject to the penalties respectively provided in the foregoing sections if, within four months after the birth of the child, or after the commencement of this Act, or within four months of the arrival of the child in the Colony, as the case may be, or, as regards a child attaining the age of twelve years, within six months of that date, he shall deliver to the Registrar of Vaccination a declaration made by himself, and duly attested by a Magistrate or a Justice of the Peace, that he conscientiously believes that vaccination would be prejudicial to the health of the child. If any person makes such declaration as aforesaid after the lapse of the required time he shall remain liable to the punishments provided by this Act in respect of any contravention which may have already been committed, but shall not again be liable to be prosecuted or punished for any thing occurring thereafter which would have been excused by such declaration had the same been made within the proper time.

Exemption on ground of conscientious objections.

13. The parent or guardian of every child which has been vaccinated, or re-vaccinated, and every adult who has been vaccinated, or re-vaccinated, shall take such child, or present himself, to the medical practitioner or district vaccinator by whom the vaccination was performed, at such interval as shall be prescribed by the regulations, in order that the medical practitioner or district vaccinator may ascertain the result of the vaccination, and if unsuccessful may repeat it, or he shall produce proof of the result of the vaccination to the medical practitioner or district vaccinator.

Persons vaccinated to be inspected by district vaccinator in order to ascertain result of operation.

Act 24, 1906.

Procedure where child or person unfit to be vaccinated.

14. If a district vaccinator or medical practitioner shall be of opinion that any child brought to him, or any person coming to him, for vaccination is not in a proper state to be vaccinated, he shall forthwith fill in and sign a certificate in the prescribed form that such child or person is then in an unfit state for vaccination, which certificate shall remain in force for four months and shall be renewable for successive periods of four months until the District Vaccinator or medical practitioner shall deem the child or person to be in a fit state for vaccination, and then the child or person shall with all reasonable despatch be vaccinated or re-vaccinated as the case may be.

Procedure in case of persons insusceptible of vaccination.

15. If a district vaccinator or medical practitioner shall find that any child or person is insusceptible to vaccination he shall fill in and sign a certificate of insusceptibility in the prescribed form, and no such child or person shall thenceforth require to be vaccinated or re-vaccinated for a period of twelve years.

At the end of twelve years from the date of the certificate of insusceptibility, every such child or person shall be again taken or shall go to the district vaccinator or medical practitioner for the purpose of being vaccinated, and the foregoing provisions of this Act in regard to reporting, inspection and re-vaccination shall apply as in the case of the first vaccination.

Penalty for neglect to perform duties imposed by this Act.

16. Every person who is by this Act required to have a child vaccinated, or re-vaccinated, or to be himself vaccinated or re-vaccinated, and who shall fail to perform within the prescribed times any duties imposed upon him in regard to vaccination, inspection, re-vaccination and other relative matters shall be guilty of an offence, and upon conviction thereof in the court of a magistrate, shall be liable to a fine not exceeding five pounds sterling.

The fact of having been convicted and punished, or the lapse of any of the times prescribed by this Act shall not save as is excepted by the twelfth section absolve or excuse any person from the performances of such obligations as aforesaid, but all such obligations shall continue until the requirements of the Act shall have been fully complied with, save so far as any person may be excused by reason of unfitness or insusceptibility as hereinbefore provided; but no person shall be convicted more than once for an offence of the same kind within any period of six months.

The provisions of this section shall apply *mutatis mutandis* in respect of any similar obligations existing under the repealed laws at the time of the commencement of this Act.

17. As soon as may be practicable after any person is received as an inmate of any reformatory, refuge, school, charitable institution, asylum, hospital, or other institution for the benefit of the poor or sick, or any prison, the person in charge thereof shall cause such person to be vaccinated or re-vaccinated unless he shall show satisfactory evidence of successful vaccination within the past ten years, or of insusceptibility; or if such person be at the time unfit, the vaccination shall be performed as soon as he is in a proper state to be vaccinated.

Act 24, 1906.

Duties of person in charge of public or charitable institution.

18. Only vaccine lymph approved and issued by the Health Officer for the Colony shall be used for the purpose of vaccination.

Approved vaccine lymph only to be used.

It shall be the duty of the Health Officer for the Colony at all times to procure and keep a sufficient supply of vaccine lymph.

Every medical practitioner or vaccinator who shall vaccinate any person shall vaccinate such person in not fewer than three separate and distinct spots, at intervals of not less than half an inch one from the other.

Method of vaccination.

19. The Governor in Council may at any time by proclamation direct that all persons who have not been successfully vaccinated or re-vaccinated within ten years preceding shall be vaccinated or re-vaccinated.

Proclamation may be issued requiring special vaccination.

It shall thereupon become the duty of every person to be vaccinated or re-vaccinated, or of the parent or guardian of every child to have such child vaccinated or re-vaccinated within one month from the publication of the proclamation in the *Government Gazette*, and all the previous provisions of this Act in respect of vaccination, re-vaccination, inspection, submission for further vaccination in the case of unsuccessful vaccination, and otherwise shall apply in respect of the obligation created by the proclamation.

The onus of proof of successful vaccination within the preceding ten years shall rest with the person seeking to take advantage thereof.

20. No person shall be liable to be vaccinated or re-vaccinated, or to have a child vaccinated or re-vaccinated, in terms of any Proclamation issued under the provisions of the foregoing Section if, within one month after the publication of the Proclamation, he shall exhibit to the Registrar for Vaccination a declaration made by himself and duly attested by a Magistrate or Justice of the Peace, that he conscientiously believes that vaccination would be prejudicial to his health or to the health of his child, as the case may be. Such declaration shall be filed and registered by the Registrar of Vaccination.

Exemption on ground of conscientious objection.

Act 24, 1906.

Persons suspected of being in a state to carry infection may be required to be vaccinated.

21. Every district vaccinator or medical practitioner may, at any time, require any person to be forthwith vaccinated or re-vaccinated, who has been or whom he has reason to believe to have been in contact with any person suffering from small-pox, or any disease suspected of being small-pox, or with any clothing or other article capable of conveying the infection of small-pox.

It shall be the duty of every such person to be vaccinated or re-vaccinated, or to have a child vaccinated or re-vaccinated as the case may be, and all the foregoing provisions of this Act in respect of inspection and otherwise shall apply in respect of the obligation so created.

Certificate of vaccination.

22. Any person who has been successfully vaccinated or re-vaccinated, and the parent or guardian of any child who has been successfully vaccinated or re-vaccinated in accordance with any of the requirements of this Act, shall be entitled to receive, on demand, from the District Vaccinator or Medical Practitioner who performed the vaccination, a certificate that such vaccination or re-vaccination has been successful. The date of such vaccination or re-vaccination shall be entered in the certificate.

Remuneration of district vaccinators.

23. The remuneration of district vaccinators shall be fixed from time to time by the Governor.

A district vaccinator shall not be allowed to charge any fee for any vaccination done or any certificate given by him in his official capacity.

Order for vaccination, how obtained.

24. Any person desiring to avail himself of the services of a district vaccinator may upon payment of a fee of one shilling obtain from the proper officer of the magistrate's office an order for vaccination by the district vaccinator.

A similar order may be obtained free of charge upon satisfying the officer that the applicant has not the means to pay the ordinary fee.

Penalty for making false certificate or entry.

25. Any medical practitioner or district vaccinator who shall knowingly make a false certificate or make any false entry in any prescribed form or record, shall be liable upon conviction to a fine not exceeding fifty pounds sterling for each such offence, and any such person who shall neglect to properly fill in, sign, and transmit or deliver any prescribed certificate shall be liable upon conviction to a fine not exceeding twenty pounds for each offence.

Contraventions.

26. Any person who shall contravene any of the provisions of this Act, or who shall knowingly disregard any duty placed upon him by the Act, or the regulations shall be guilty of an offence, and shall, except in the cases otherwise specially provided for, be liable to a fine not exceeding five pounds sterling.

27. All offences under this Act and the regulations, shall be cognizable in the courts of magistrates.

Act 24, 1906.

Cognizance of offences.

28. In any prosecution under this Act, or the regulations, it shall not be necessary in support thereof to prove that the defendant had received any prescribed notice.

Proof of notice not requisite.

Any exemption given by this Act on the ground of successful vaccination or of unfitness or insusceptibility shall be sufficiently proved by the production of a certificate thereof given by a medical practitioner or district vaccinator, or a certified extract from any official register, in which any such matter may be recorded.

Exemptions, how proved.

29. The following special provisions shall be observed in the application of this Act to Indian immigrants as defined by Law No. 25, 1891 :

Application of Act to Indian Immigrants.

- (a) The Protector of Indian Immigrants shall take all necessary steps for acquainting the Indian population with the requirements of this Act, and for notifying the attendances of the district vaccinators.
- (b) Every employer of indentured Indian immigrants shall be required to facilitate in every way the carrying out of the provisions of this Act in regard to the Indians in his service.
- (c) The Protector shall transmit to the Health Officer for the Colony, at the end of each month, a copy of the register of births among Indians for the month.
- (d) The Indian Immigration Department shall cause every indentured Indian entering this Colony, who shall be unable to produce satisfactory evidence of having been re-vaccinated or vaccinated within the preceding ten years, to be vaccinated or re-vaccinated before leaving the depot.
- (e) The Governor in Council may from time to time make regulations specially applicable to Indian Immigrants, and such regulations may modify the procedure prescribed by this Act in so far as may be necessary to adapt it more effectually to the circumstances of the Indian population.
- (f) The contravention of any such regulations shall be punishable by a fine not exceeding five pounds sterling.

30. The vaccination of Natives shall be carried out under a system to be defined by the regulations hereinafter mentioned, and not according to the procedure prescribed in the foregoing part of this Act, except in regard to natives exempted from the

Natives.

Act 24, 1906. operation of Native Law, and Natives coming within the provisions of Act No. 5, 1896, to all of whom the Act shall apply in the same manner as to Europeans.

Regulations for natives.

31. The Governor in Council may from time to time make regulations for carrying out the system of compulsory vaccination amongst natives other than those specially excepted.

Contravention of regulations.

32. The contravention of any of such regulations shall be an offence punishable by a fine not exceeding five pounds sterling.

The provisions of the foregoing part of this Act with regard to the prosecution and proof of offences or of exemptions shall apply to cases under such regulations.

Penalty for producing or attempting to produce the disease of small-pox.

33. Any person who shall produce, or attempt to produce in any person by inoculation with variolous matter, or by wilful or negligent exposure to variolous matter, or to any matter or thing impregnated with variolous matter, or wilfully or negligently, by any other means whatsoever, produces the disease of small-pox in any person, shall be guilty of an offence, and shall be liable to be imprisoned, with or without hard labour, for any term not exceeding three months.

Omitted from end of Sec. 30, supra.

The regulations may, however, contain special clauses applicable to Natives of the classes aforesaid, and may modify the procedure prescribed by the Act in so far as may be necessary to adapt it more effectually to the circumstances of those classes of Natives.

VERULAM LOCAL BOARD.

Act No. 33, 1905.

“To enable the Verulam Local Board to borrow a sum not exceeding Twelve Thousand Pounds Sterling for the purpose of supplying the Township of Verulam with water from the River Umhloti; by gravitation to construct the necessary works for such purpose; to levy a water rate; and, to prevent the pollution of water.”

[21st August, 1905.]

WHEREAS it is expedient to authorise the Local Board for the Township of Verulam to borrow a sum not exceeding Twelve Thousand Pounds Sterling to enable the said Board to supply the Township of Verulam with water; to construct the necessary works for such purposes; and to levy a water rate; and to prevent the pollution of water; and to exercise all powers necessary for the purposes aforesaid:

BE IT THEREFORE ENACTED by the King’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of the Colony of Natal, as follows:—

1. That Act No. 22 of 1903, known as “The Verulam Loan and Waterworks Act, 1903,” is hereby repealed. Repeal.
2. This Act may be cited as “Verulam Loan and Waterworks Act, 1905.” Short title.
3. The Local Board for the Township of Verulam is hereby authorised to borrow from time to time the moneys required for the construction of Waterworks for the Township of Verulam to an amount not exceeding Twelve Thousand Pounds Sterling. Loan of £12,000 authorised.
4. The moneys borrowed under this Act shall be applied to the object mentioned in the last preceding section, and no other object. Application of moneys.
5. The sums authorised to be borrowed under this Act, and the interest payable thereon, shall be a charge upon the rates, rents, revenues, and the immovable property of the Township of Verulam vested in the Verulam Local Board. Loan to be a charge on the Township rates, rents, etc.
6. In case the interest payable on any moneys borrowed under this Act shall be in arrear and unpaid for thirty days after the time appointed for the payment thereof, it shall be lawful for the Supreme Court of the Colony of Natal, at the instance of any person whose interest shall be in arrear, and as Remedy for default in payment of interest.

Act 33, 1905. often as such default shall occur, to cause a special rate to be levied upon the real or immovable property situate within the Township of Verulam, which is now or may hereafter be liable to be rated for Township purposes under any Law or Act now or hereafter to be in force in the Colony of Natal, to the intent that all arrear interest may be paid out of the proceeds of such special rate.

Date of repayment.

7. The moneys borrowed under this Act shall be repayable within fifty years from the date of borrowing.

Remedies for default in repayment of loan.

8. In case any moneys borrowed under this Act shall not be repaid upon demand at or after the date fixed for the payment thereof, it shall be lawful for the Supreme Court, as often as such default shall occur, and at the instance of any person whose claim shall be unsatisfied, to cause a sale or sales to be made of so much of the Town Lands of the township as may be necessary for the purpose of raising and paying the moneys due and payable under this Act, and in case the moneys received by such land sales shall be insufficient to pay and satisfy all moneys due and payable, then the deficiency shall be made good by a special rate or special rates to be levied in the manner hereinbefore provided with respect to the payment of arrear interest.

Debentures or stock.

9. The moneys hereby authorised to be borrowed may be raised upon debenture or stock, to be called "Verulam Local Board Stock," and hereinafter referred to by the word "Stock."

Interest.

10. Such debentures or stock shall bear interest at a rate not exceeding six per centum per annum, falling due on the 30th day of June and on the 31st day of December in each year, and payable out of the rents, rates, and revenues of the township, or out of the proceeds of the sales of lands.

Regulations relative to stock.

11. The Local Board of Verulam may, from time to time, make rules and regulations providing for all or any of the following things:—

- (a) For registering stock in the books to be kept for that purpose by the Clerk to the said Board.
- (b) For managing the creation, registration, issue, and transfer of stock.
- (c) For paying interest on stock.
- (d) For issuing stock certificates.

Incorporation of Lands Clauses Law.

12. For the purpose of the construction of the works authorised by this Act, the Lands Clauses Consolidation Law, 1872, and all the provisions thereof, shall be incorporated with this Act, save in so far as expressly varied by this Act.

Expropriation of land.

13. The Local Board for the Township of Verulam may purchase or take such lands or the user of such lands as may be

required for the purposes of the works and undertakings authorized by this Act. **Act 33, 1905.**

14. The Verulam Local Board are authorised to construct all works and to do all things necessary for the damming up of the Umhloti River at a point on the said river about ten miles up the river, as near as convenient to the spot shown on the plans referred to in Clause 15 of this Act and for making reservoirs, filter beds and service-tanks, and for laying water-pipes from the said dam or dams, through the Inanda Location from above the third drift on the Verulam-Ndwedwe Road, Lots 1, 2, 13, 15, 21, 23, 24, 53, 54 Block B, Cotton Lands, Umhloti, Lots 2, 1, 6, a portion of the Village of New Glasgow (on the boundary of Lot 6), 13, 14, 16, 17, 11, 18, 12, 19, 25, 28, Block A, Umhloti; Part of the Farm Roode Krans, Erven 197, 198, 194, 193, 146, 147, of the Township of Verulam, and for leading water through such pipes, or for storing part of such water on the Town Lands of the Township of Verulam, and for distributing such water through such portions of the Township as the Local Board may from time to time determine to bring within the water scheme, and to do and perform all such further and other acts, deeds, matters and things as shall be necessary to carry out the objects of this Act. **Construction of works; Distribution of water.**

15. The route of the water pipes shall be constructed through the lands referred to in Section 14 of this Act, shown in a map or chart filed with the Clerks of the Legislative Council and Assembly and in the Local Board Office, Verulam. **Route of pipes.**

16. If the taking, impounding, diversion, appropriation, or conveyance of water under the authority of this Act shall deprive any person of any water or right of water which he may at the time of such taking, impounding, diversion, appropriation or conveyance of water possess, or be entitled to possess, and shall thereby cause damage to such person or to his property, such person shall be entitled to recompense or compensation, to be settled in case of difference as if the diversion of water constituted a damage to the land within the meaning of the 65th Section of the Lands Clauses Consolidation Law, 1872. **Compensation for injury by taking of water**

17. The Local Board for the Township of Verulam may from time to time levy a water rate upon any portion of the immovable property situate within the township, and liable to be rated under any Law or Act now or hereafter to be in force in the Colony of Natal: Provided that no property shall be liable to be rated unless the nearest point thereof shall be situate within 220 yards of the nearest point of the water system. **Water rate.**

18. For the purpose of the water rate authorised by this Act, Sections 38, 39, 43, 44, 47 and 48 of Law No. 11 of 1881, **Incorporation of clauses of certain Laws.**

Act 33, 1905. and Sections 12, 13 and 14 of Law No. 39 of 1884, and Section 9 of Law No. 17 of 1893 shall be construed conjointly with this Act.

By-laws.

19. The power to make by-laws given to Local Boards under any Law or Act now or hereafter to be in force in the Colony of Natal is extended to the Local Board for the Township of Verulam for all purposes of this Act within the said Township, but such power is specially extended so as to enable the said Board to make by-laws within or without the said Township:—

- (a) To prevent the pollution of any water required or authorised to be used under this Act.
- (b) To prevent the obstruction of any person in the discharge of his duty in connection with the waterworks hereby authorised.
- (c) To prevent the doing of any act or thing likely to cause damage to the said waterworks or any portion thereof.

Penalties for offences.

Any person convicted of any breach of any such by-law shall be liable to a penalty for each offence not exceeding Ten Pounds Sterling, or, in default of payment, to imprisonment, with or without hard labour, for any period not exceeding one month. Any fine inflicted under the provisions of this Act shall be payable into and form part of the revenue of the township. Any person charged with contravening such by-law may be prosecuted in the Court of the Magistrate having jurisdiction by any Officer appointed for that purpose by the Local Board for the Township of Verulam.

Supply of Water; Tariff of charges; Special contracts.

20. The Local Board for the Township of Verulam may regulate and control the mode of supplying water to private property, and may frame a tariff of charges in respect of such supply, and may also frame a tariff of special charges for any special consumption of water other than for domestic or household use, and may contract with the Natal Government for the supply of water for the use of the Government, and may contract for the supply of water to persons or Corporations residing within or without the township boundaries.

Right of entry for purpose of inspection.

21. The said Local Board, by its proper officers, shall have the right of access into private houses, or lands, for the purposes of inspecting pipes, meters, and cisterns, at all reasonable times.

VESSELS:

[See "SHIPPING."]

VILLAGES (WATER SUPPLY).

Act No. 11, 1902.

“To amend and extend the provisions of the Village Water Supply Act, 1897.”

[23rd May, 1902.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. This Act and Act No. 19, 1897, shall be read together, and may be jointly referred to as the “Village Water Supply and Public Works Acts, 1897 and 1902.”

Joint construction of Acts.

2. If at any time a memorial shall be presented to the Governor, signed by not less than three-fourths of the resident householders of a Village to which Act No. 19, 1897, applies, praying that works may be carried out within the Village for road or street making or improvement, or for sanitation or for other purposes of Village improvement, the Governor may, after such enquiry as he shall require, direct such works or any part of them to be carried out.

Application and authority for construction of improvement works.

3. A Village to which the provisions of Act No. 19, 1897, have not yet been applied may be brought under the separate provisions of this Act, or under the joint provisions of this Act and Act No. 19, 1897, in manner provided by the said Act of 1897, upon a memorial for that purpose in terms of Section 5 of the said Act, setting forth the works proposed to be constructed.

Application of Acts to villages not already under Act 19 1897.

4. The powers and authority given by the said Act of 1897 shall extend *mutatis mutandis* to all matters relative to works carried out under this Act.

Incorporation of powers under Act of 1897.

5. Section 13 of Act No. 19, 1897, shall be repealed without prejudice to anything done or any By-laws thereunder, and the following Section shall be enacted in lieu thereof:—

Repeal.

The Governor may, under By-laws published from time to time, exercise any of the following powers:—

By-laws.

- (a) He may impose upon the lands and immovable property of the village, and levy and get in all such rates as may be required for the cost of the construction, maintenance and repair of waterworks and other works carried out under this Act and for any other purposes in connection therewith.

Rates.

- (b) He may determine the basis and mode of valuation for the purposes of the rates, and may make such

Valuation.

VILLAGES (WATER SUPPLY).

Act 11, 1902.

exemptions as may from time to time be considered proper in the public interest of lands held and used for public purposes or for the purposes of a church, school, or hospital, or charitable institutions.

Charges for water.

(c) He may make such charges as may be proper for the supply and use of water for domestic, industrial, or irrigation purposes respectively.

Rules.

(d) He may make rules for all other purposes necessary for giving full and complete effect to this Act.

Meetings for election of Committees.

6. As soon as may be after the passing of this Act, and thereafter in the month of January in each year, the Magistrate shall call a meeting of persons who are owners and occupiers of lands in every village to which this Act or Act No. 19, 1897, applies, and whose names are also on the Voters' Roll of the Division.

For this purpose he shall affix to the Court-house board, and publish at least twice in a newspaper published in the Colony, a notice calling a meeting of all such owners and occupiers as aforesaid, to be held at a specified place and time not less than fifteen days from the date on which the notice is fixed to the Court-house board.

Magistrate to preside. Who may vote.

7. The Magistrate shall preside at the meeting. Every person being a registered owner or occupier of land within the village subject to rates under this Act, or Act No. 19, 1897, and whose name also appears on the Voters' Roll for the Division, shall be entitled to vote.

Committee.

8. The meeting may elect a Committee not exceeding three in number, for the purpose of advising the Government in any matters relative to the administration of the said Acts. Such Committee shall hold office until the next election, and any vacancy occurring in the interval may be filled up by the remaining members.

VOLUNTEERS.

[See "MILITIA."]

VRYHEID LOCAL BOARD.

Act No. 25, 1906.

“To enable the Vryheid Local Board to borrow a sum of money not exceeding £35,000 for the purpose of (1) supplying the township of Vryheid with water from the Magot River, to construct the necessary works for such purpose, to levy a water rate, and to prevent the pollution of water, (2) supplying plant for electric installation of township, and (3) constructing necessary public works.”

[10th August, 1906.]

WHEREAS it is expedient to authorise the borrowing by the said Local Board of a sum of money not exceeding thirty-five thousand pounds to enable them to supply the township of Vryheid with water from the Magot River or other source of supply on the town lands of Vryheid, and to levy a rate and to prevent the pollution of the water of the said river or other source at or above or after being led from the point of diversion, (2) to supply the said township with plant for electric lighting installation, and (3) to construct necessary public works, and to improve the streets, and to pay the Government of Natal the debt due to them in respect of the present water works, and to exercise all powers necessary for the purposes aforesaid :

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of the Colony of Natal, as follows :—

1. This Act may be cited as the “Vryheid Loan Act,” 1906.
2. The Local Board for the township of Vryheid is hereby authorised to borrow from time to time the moneys required for (a) the construction of waterworks (b) the supply of plant for electric lighting installation, (c) the construction of necessary public works for the township of Vryheid, and (d) to pay the present debt on the existing water works, to an amount not exceeding in all thirty-five thousand pounds (£35,000) Sterling, as stated in the Schedule annexed to this Act.

Short title.

Loan of
£35,000
authorised.

3. The moneys borrowed under this Act shall be applied to the objects mentioned in the last preceding section and no other object.

Application of
moneys.

4. The sums authorised to be borrowed under this Act and the interest payable thereon shall be a charge upon the rates, rents and revenue of the township of Vryheid.

Loan to be a
charge upon
revenue of
township.

Act 25, 1906.

Remedy for
default in
payment of
interest.

5. In case the interest payable on any moneys borrowed under this Act shall be in arrear and unpaid for thirty days after the time appointed for the payment thereof, it shall be lawful for the Supreme Court of the Colony of Natal, at the instance of any person whose interest shall be in arrear, and as often as such default shall occur, to cause a special rate to be levied upon the real or immovable property situated within the township of Vryheid, which is now or may hereafter be liable to be rated for township purposes under any Law or Act now or hereafter to be enforced in the Colony of Natal, to the intent that all arrear interest may be paid out of the proceeds of such special rate.

Date of
repayment.

6. The moneys borrowed under this Act shall be repayable within thirty years from the date of borrowing.

Remedies for
default in
repayment of
loan.

7. In case any moneys borrowed under this Act shall not be repaid on demand at or after the date fixed for the payment thereof, it shall be lawful for the Supreme Court, as often as such default shall occur, and at the instance of any person whose claim shall be unsatisfied, to cause a sale or sales to be made of so much of the town lands of the said township as may be necessary for the purpose of raising and paying the moneys due and payable in terms of this Act, and in case the moneys received by such land sales shall be insufficient to pay and satisfy all moneys due and payable, then the deficiency shall be made good by a special rate or special rates to be levied in the manner hereinbefore provided with respect to the payment of arrear interest.

Debentures or
stock.

8. The moneys hereby authorised to be borrowed may be raised upon debentures or stock to be called "Vryheid Local Board Stock," and hereinafter referred to by the word "Stock."

Interest.

9. Such debentures or stock shall bear interest at a rate not exceeding six per centum per annum falling due on the 30th day of June and the 31st day of December in each year and payable out of the rents, rates and revenues of the township, or out of the proceeds of the sales of land and payment thereof shall be made by the Town Clerk.

Overdraft at
Bank
authorised.

10. The Local Board are authorised pending the issue of such stock to borrow on overdraft such sums as may from time to time be arranged with their bankers, and as are required for the purpose of the works contemplated, in anticipation of the raising of the loan authorised by this Act, not exceeding at any one time in the whole the sum of Five Thousand Pounds (£5,000) Sterling in such manner as may be most convenient on special resolution of the Local Board to be passed authorising the amount to be overdrawn, and shall repay the moneys so borrowed

out of the principal sums to be raised under the provisions of this Act. The interest upon any sum borrowed on overdraft shall be, and is hereby charged upon, and made payable out of the general revenue of the township and shall not form a charge against the loan authorised by this Act. Act 25, 1906.

11. The Local Board of Vryheid may from time to time make rules and regulations providing for all or any of the following things: Regulations relative to stock.

- (a) For registering stock in the books to be kept for that purpose by the said Town Clerk.
- (b) For managing the creation, registration, issue and transfer of stock.
- (c) For paying interest on stock.
- (d) For issuing stock certificates.

12. For the purpose of the construction of the works authorised by this Act the "Lands Clauses Consolidation Law," 1872, and all the provisions thereof shall be incorporated with this Act save in so far as expressly varied by this Act. Lands Clauses Law.

13. The Local Board for the township of Vryheid may purchase or take such lands as may be required for the purposes of the works and undertakings authorised by this Act. Expropriation of land.

14. The Local Board for the township of Vryheid is authorised to construct all works and to do all things necessary for damming up the Magot River on the farm Aanstoot, Ward I, district Vryheid at a spot situated within one mile from the boundary of the town lands of Vryheid and for making reservoirs and filter beds and service tanks and for laying water pipes from the said dam or dams through the said farm Aanstoot and through the Town lands and township of Vryheid and for leading water through such pipes and for storing part of such water on or near the town lands of Vryheid, and for distributing water through such portions of the township as the Local Board may from time to time determine to bring within the water system, and to do and perform all such further and other acts, deeds, matters, and things as shall be necessary to carry out the objects of this Act. Construction of works; Distribution of water.

15. The site upon which the said water shall be dammed and the route of the water pipes shall follow as near as may be the line laid down in the map or chart filed with the Clerk of the Legislative Council and the Clerk of the Legislative Assembly, and in the Local Board Office in Vryheid. Route of pipes.

16. If the taking, impounding, diversion, appropriation or conveyance of water under the authority of this Act shall deprive any person of any water or right of water which he may at the time of such taking, impounding, diversion, appropriation Compensation for injury by taking of water.

Act 25, 1906.

or conveyance of water, possess or be entitled to possess, and shall thereby cause damage to such person or to his property, such person shall be entitled to recompense or compensation to be settled in case of difference as if the claim constituted damage to land within the meaning of the 65th Section of the "Lands Clauses Consolidation Law."

Water rate.

17. The Local Board of the township of Vryheid may from time to time levy a water rate not exceeding two pence in the £ Sterling upon any portion of the immovable property situated within the township, and liable to be rated under any Law or Act now or hereafter to be enforced in the Colony of Natal provided that no property shall be liable to be rated unless the nearest point thereof shall be situated within two hundred and twenty yards of the nearest point of the water system.

Incorporation of clauses of certain laws.

18. For the purpose of the water rates authorised by this Act, Sections 38, 39, 43, 44, 47 and 48 of Law No. 11 of 1881, and Sections 12, 13 and 14 of Law No. 39 of 1884, and Section 9 of Law No. 17 of 1893 shall be construed jointly with this Act.

By-laws.

19. The power to make by-laws given to Local Boards under any Law or Act now or hereafter to be in force in the Colony of Natal is extended to the Local Board for the township of Vryheid for all the purposes of this Act, but such power is especially extended so as to enable the Board to make by-laws,

- (a) To prevent the pollution of any water required or authorised to be used under this Act.
- (b) To prevent the obstruction of any person in the discharge of his duties in connection with the water works hereby authorised.
- (c) To prevent the doing of any act or thing likely to cause damage to the said water works or to any portion thereof.

Penalties for offences.

Any person convicted of any breach of any such by-laws shall be liable to a penalty for each offence not exceeding ten pounds sterling, or in default of payment to imprisonment with or without hard labour for any period not exceeding one month. Any fine inflicted under the provisions of this Act shall be payable into and form part of the revenue of the township. Any person charged with contravention of any such bye-law may be prosecuted in the Court of the Magistrate having jurisdiction by any officer appointed for that purpose by the Local Board for the township of Vryheid.

Supply of water; tariff of charges; special contracts.

20. The Local Board for the township of Vryheid may regulate and control the mode of supplying water to private property and may frame a tariff of charges in respect of such

supply and may also frame a tariff of special charges for any special consumption of water other than for domestic or household use, and may contract with the Natal Government or with any corporation or person residing within or without the township boundaries for a supply of water. **Act 25, 1906.**

21. The said Local Board by its proper officer shall have the right of access into private houses, on or to private lands for the purposes of inspecting pipes, meters and cisterns provided that no such rights shall be exercised against the wish of a householder except between the hours of eight o'clock in the forenoon, and five o'clock in the afternoon, and then only in pursuance of written or printed notice given not less than twelve nor more than forty eight hours before the inspection. **Right of entry for purposes of inspection.**

22. Nothing in this Act contained shall be deemed to affect or curtail the rights of Government to the water from the stream known as the Klein Magot and the spring or stream north of the Railway Station reserved in the Deed of Grant of the Vryheid Town Lands. **Saving of certain rights.**

23. This Act shall commence and take effect from and after the promulgation thereof in the *Natal Government Gazette*. **Commencement.**

SCHEDULE I.

Water Works and Water Supply.

Plant necessary for Electric lighting installation.

Town Offices.

Making and repairing foot paths and streets and other public works.

Payment of amount due to Government on existing Water Works.

WESTON.

[See "COMMONAGES."]

WILD BIRDS PROTECTION.

WILD BIRDS PROTECTION.

Act No. 13, 1904.

“To amend Act No. 33, 1896, entitled Act ‘For the Protection of certain Insectivorous and other Wild Birds.’”

[8th July, 1904.]

BE IT ENACTED by the King’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

Word “Wild”
expunged.

1. The word “wild” wherever occurring in Act No. 33, 1896, shall be expunged.

Addition of
Homing or
Carrier
Pigeons to
Schedule.

2. Homing or carrier pigeons shall be added to the list of birds in the Schedule of Act No. 33, 1896.

Magistrate’s
jurisdiction.

3. The Magistrate before whom any person is convicted of killing, catching, or shooting at homing or carrier pigeons may, in passing sentence, adjudge such person to pay to the owners of the pigeons the value thereof or of the injury which may have been done to them, not exceeding Five Pounds (£5) Sterling, and any sum so awarded may be levied in execution of the Magistrate’s judgment, together with the costs incidental to the levy.

WINE AND SPIRIT DEALERS.

[See “REVENUE.”]

WIRELESS TELEGRAMS.

[See “TELEGRAPH.”]

XANTHIUM STRUMARIUM.

[See “LANDS (IMPROVEMENT).”]

ZULULAND.

[For the various Acts in force in Zululand, see titles "DENTISTS," "GAOLS," "IMMIGRATION (INDIAN)," "REGISTRATION (DEEDS)," &c., &c.]

Act No. 37, 1903.

"To assimilate the Laws in force in the Province of Zululand with the general Laws of Natal."

[5th October, 1903.]

WHEREAS by Proclamation No. II. of the Territory of Zululand, bearing date the 21st day of June, 1887, it was provided that the Laws then in force in the Colony of Natal should, so far as applicable, be the Laws to be in force in the Territory of Zululand, save as otherwise specially provided :

AND WHEREAS by divers subsequent Proclamations Laws were made for the good order and government of the said Territory, which Laws are for the most part similar to the Laws of Natal but differ therefrom in certain respects :

AND WHEREAS on the 30th day of December, 1897, the said Territory of Zululand was annexed to the Colony of Natal under the title of the Province of Zululand :

AND WHEREAS by Acts No. 37, 1897, and No. 17, 1898, certain Laws of Natal were applied to the Province of Zululand, and certain other Laws were withheld therefrom either wholly or in part :

AND WHEREAS it is now expedient to assimilate the Laws in force in the said Province of Zululand as far as may be with the general Laws in force in this Colony :

BE IT THEREFORE ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

1. This Act may be known as "The Zululand Laws Act, 1903." Short title.

2. Save as is in this Act excepted or otherwise specially provided the following legislative enactments are hereby repealed: Repeal.

All Proclamations made by the Governors of the Territory of Zululand, beginning with Proclamation No. II., bearing date the 21st day of June, 1887, down to the annexation of the said Territory to the Colony of Natal;

Act 37, 1903.

Subsections (a) and (b) of Section 4 of Act No. 17, 1898 (the Consolidation of laws [Zululand] Act, 1898), together with the first and second Schedules of the said Act ;

Application of Laws of Natal to Zululand.

Sections 3 and 4 of the License and Stamp Act, 1898 ; and from and after the commencement of this Act the Ordinances, Laws, and Acts in force in the rest of Natal, together with such rules and orders made thereunder as purport to apply to the Colony in general shall, subject as aforesaid, be of force in the Province of Zululand in the like manner as in the rest of Natal, except as may be otherwise provided in the Zululand Annexation Act, 1897, or any subsequent Act : Provided that the reservations in paragraphs 2, 3, and 4 of the first Schedule of Act No. 17, 1898, in reference to Act No. 21, 1894, "The Civil Service Act, 1894," shall, notwithstanding such repeal, remain of full force and effect.

Savings.

3. Such repeal shall not affect the past operation of any of the repealed enactments, or the validity of any judgment, sentence, or order lawfully made before the commencement of this Act, or any right acquired, or any liability, civil or criminal, incurred before the commencement of this Act.

Magisterial Divisions.

4. This Act shall not be deemed to affect the establishment or boundaries of any Magisterial District in the Province of Zululand, but any such District shall be deemed to be a Magisterial Division created under Act No. 22, 1896.

Amatongaland and northern territories.

5. Nothing in this Act shall be deemed to repeal or affect any Proclamations relating to the annexation of Amatongaland or other Territories to the northward of Zululand, save in so far as any such Proclamation makes provision inconsistent with this Act in regard to the Laws or government of any such Territories.

Certain proclamations to continue in force.

6. The Zululand Proclamations mentioned in Schedule I. of this Act shall remain in force to the extent shown in the outer column of the Schedule.

7. The Zululand Proclamations mentioned in Schedule II. of this Act shall not cease to be of force by reason of this Act, but they shall be subject to alteration or revocation by Proclamation in the like manner as similar Proclamations made under the Laws of Natal.

Native Law.

8. Nothing in this Act shall be deemed to extend to the Province of Zululand the operation of Law No. 19, 1891, or of the Code of Native Law forming the Schedule of the said Law, or of any Law or Act amending the said Law No. 19, 1891, or the Schedule thereof, or of the Native Locations Act, 1896, with the

exception however of Act No. 1, 1901, which shall apply to the Province of Zululand. **Act 37, 1903.**

The Native Law as administered by the Courts of the Province of Zululand immediately prior to the date of the commencement of this Act shall, save so far as it is amended by the Courts Act, 1898, and by the said Act No. 1, 1901, remain in force in the said Province until other provision shall be made by Act of Parliament.

9. Any person who on the 1st day of May, 1903, was lawfully licensed in the Province of Zululand, under the provisions of Law No. 37, 1884, as a medical practitioner or as a chemist and druggist shall be entitled without charge or fee to be registered under the Medical and Pharmacy Act, 1896, as a medical practitioner or as a chemist and druggist as the case may be. This provision shall not prevent any person from being struck off the register, and having his license cancelled, for any cause which may have arisen before the commencement of this Act, and which would have been sufficient to render him liable under the Medical and Pharmacy Act, 1896, to be so dealt with.

Medical practitioners, chemists and druggists.

10. Any license taken out before the commencement of this Act either in the Province of Zululand or elsewhere in Natal by any auctioneer, advocate, attorney, architect, civil engineer, interpreter, land surveyor, medical practitioner, or dentist, shall entitle the holder thereof to the advantages of Subsection (c) of Section 16 of the License and Stamp Act, 1898, throughout the whole Colony.

Extension of privileges under certain licenses.

11. Any deed executed in the Province of Zululand before the commencement of this Act which was according to the Laws heretofore in force in the said Province either duly stamped or exempt from stamp duty shall be deemed to be duly stamped or exempt from duty as the case may be under the License and Stamp Act, 1898.

Stamp duties on deeds heretofore executed.

12. This Act shall not take effect unless and until the Governor shall by proclamation notify that it is His Majesty's pleasure not to disallow the same; and thereafter this Act shall come into operation on such day as the Governor shall appoint by the same or any other Proclamation.

Commencement of Act,

Act 37, 1903.

SCHEDULE I.

No. of Proclamation.	Date.	Subject.	Extent of Reservation.
II.	June 21st, 1887	Laws and Regulations for the government of Zululand.	Sections 9, 10, 37, 41, 43, and trading regulations Sections 50 to 55 inclusive, and 59 to 65 inclusive, as amended by Proclamation IV., 1894, dated 5th March, 1894. The officer appointed under Section 58 of The Courts Act, 1898 shall discharge the duties entrusted to the Chief Magistrate by these regulations.
II.	Jan. 12th, 1895	Outspan.	The whole.
VI.	March 28th, 1895	Treach Regulations.	Sections 1, 2, 4, 5.
VII.	April 5th, 1895	Practice of Medicine amongst natives.	The whole.
VIII.	April 7th, 1895	Outspan.	The whole.
I.	April 22nd, 1897	Prohibiting sale of Utywala.	Sections 1 and 2.
II.	April 22nd, 1897	Game.	The whole.
XI.	Dec. 6th, 1897	Native Chiefs Grants.	The whole.

Act 37, 1903.

SCHEDULE II.

No. of Proclamation.	Date.	Subject.
I.	1st Jan., 1895	Melmoth Rifle Association.
III.	21st Jan., 1895	Zululand Rifle Association.
XI.	10th June, 1895	Nqutu Rifle Association.
III.	2nd Mar., 1896	Eshowe Sanitary Board.
X.	1st Sep., 1896	Nkandbla Rifle Association.
III.	31st May, 1897.	Eshowe Erven.
IV.	31st May, 1897	Nondweni Erven.

Act No. 31, 1905.

“To amend the Laws relative to Liquor Licenses and other Licenses in their application to the Province of Zululand.”

[21st August, 1905.]

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. If at any time it shall appear to the Governor in Council that the conditions existing in any magisterial division of the Province of Zululand are such that a licensing board cannot with advantage be appointed for such division under the provisions of the Liquor Act, 1896, the Governor in Council may, by proclamation, bring such division within the operation of this Act.

Act how to be applied and in what case.

2. In any division to which this Act applies the magistrate shall exercise the powers and authority of a licensing board under the Liquor Act, 1896, and it shall not be necessary to appoint such a board for the division during the currency of the proclamation.

Magistrate to exercise powers of Licensing Board.

3. Any such proclamation may be revoked by a like proclamation, and thereupon this Act shall cease to apply to the divisions mentioned in the proclamation.

When Act ceases to operate.

Act 37, 1903.

4. The reference in Act No. 18, 1897, (*a*) to licensing boards shall, as regards any division to which this Act applies, be understood as references to the magistrate.

5. Section 63 of the Zululand Proclamation No. II., dated the 21st June, 1887, is hereby repealed and the following is enacted in lieu thereof (*b*):

Hawker's Licenses.

Every hawker or travelling trader in the Province of Zululand shall be required to take out a hawker's license month by month.

Such licenses may be granted free of charge for the purpose of trading only in other than imported goods.

For a hawker's license to trade in imported goods the charge shall be one pound per month or part of a month, and for every vehicle exceeding one an additional charge of one pound a month shall be paid.

New or renewed licenses subject to approval of Colonial Secretary.

6. (1) No new or renewed license, whether it be a license under the Liquor Act, 1896, or a trading license of any kind shall be granted within the Province of Zululand unless the approval of the Colonial Secretary to the application therefor is produced to the licensing authority.
- (2) The giving or withholding of such approval shall be in the absolute discretion of the Colonial Secretary, from whose decision there shall be no appeal to any court of law or authority.
- (3) Nothing in this Section shall be deemed to exempt any person from the requirements of the Liquor Act, 1896, or of any other Law or Act relating to licenses.
- (4) This section shall not apply to licenses granted within any borough or local township by the town council, local board, or other municipal licensing authority (*c*).

(*a*) See tit. "DEALERS (WHOLESALE AND RETAIL)," Vol. I.

(*b*) See Act No. 15, 1906, post.

(*c*) See note (*b*).

Act No. 15, 1906.

“To remove doubts as to the meaning of Act No. 31, 1905, entitled Act ‘To amend the Laws relative to Liquor Licenses and other Licenses in their application to the Province of Zululand.’”

[26th July, 1906.]

BE IT ENACTED by the King’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows:—

1. Notwithstanding anything contained in the first section of Act No. 31, 1905, the fifth and sixth sections of the said Act shall be and shall be deemed to have been in force throughout the Province of Zululand as from the day following the promulgation of the said Act in the *Natal Government Gazette*, but without prejudice to any license granted before the passing of this Act.