

STATUTES OF NATAL

COMPILED AND EDITED BY

R. L. HITCHINS,

*Solicitor of the Supreme Court of Judicature in England, and Attorney
of the Supreme Court of the Colony of Natal.*

REVISED ON BEHALF OF THE

COLONIAL GOVERNMENT

BY

G. W. SWEENEY, B.A., LL.B.,

Clerk of the Legislative Assembly of Natal.

BEING A

COMPILATION OF THE STATUTES OF THE COLONY OF
NATAL FROM THE YEARS 1845 TO 1899, INCLUSIVE,
WITH FOOTNOTES, AND WITH APPENDIX
CONTAINING THE ACTS OF 1900.

VOL. II.

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PREFACE TO VOL II.

Shortly after the Preface to Vol. I. had been written, and on the eve of publication, a misfortune befell this work which necessitated the revising of proofs of nearly the whole of the Volume *de novo*. None could have been so bitterly disappointed at the loss of time and labour thus caused as those connected with the compiling and publishing of the book. But, thanks to the energetic action of the Publishers, the delay was minimised, and the reader is probably more than compensated by the incorporation in the work of the Acts of an additional year—1900. The manner in which these Acts have been included will be found mentioned in a footnote on page 28 of the Chronological Index in the First Volume.

The Compiler acknowledges with thanks the kind appreciation of the work expressed by many members of the profession, and trusts that the Volume now issuing will be found at least equal to its predecessor in every respect.

Both the MSS. and proofs of this Volume have come under the scrutiny of Mr. G. W. Sweeney, the present Clerk of the Legislative Assembly, and the cautiousness and vigilance of his revision could scarcely be exceeded. In addition to these services, Mr. Sweeney has again collaborated to a large extent in the compiling of the footnotes. Many important decisions have been added by him, especially under titles referring to Natives and Native Law. For this assistance the Author is very much indebted.

R. L. H.

Durban, June 28th, 1901.

LABOUR TOUTS.

Act No. 36, 1896.

“To regulate the system of Touting for Natives in Natal to do work or labour beyond the borders of the Colony.”

[20th July, 1896.]

WHEREAS it is expedient to regulate the system of Touting for Natives in Natal, to do work or labour beyond the borders of the Colony:

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:—

1. This Act may be cited as the “Labour Tout Regulation Act, 1896.” Short title.
2. For the purposes of this Act, the expressions “labour tout” and “tout” shall mean and include any person who shall in his own name or otherwise, for the purpose of work or labour beyond the borders of this Colony, procure or attempt to procure, ply, seek for, or engage Natives in this Colony, or shall supply, or contract, or undertake to supply Natives to be employed or engaged in work or labour of any kind beyond the borders of the Colony: Provided that hunters, travellers, and others taking Native servants out of the Colony under special permission of the Governor, under such rules and regulations as may be made for that purpose, as hereinafter provided, shall not, nor shall the persons supplying such servants, be regarded by reason thereof as being touts within the intent and meaning of this Act. Interpretation.
3. Every labour tout shall take out an annual license from the Magistrate of the Division in which he intends to procure, ply, or seek for labourers or servants. License.
4. Such licenses shall be issued only to persons approved by the Magistrates. Who may be licensed.
5. The charge for every such license shall be Five Pounds Sterling for each year or portion of the year ending on the 31st day of December. License fee.
6. No such license shall be transferable. License not transferable.
7. 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 Ten Pounds Sterling, or, in default of payment, to be imprisoned, with or without hard labour, for any term not exceeding six months. Unlicensed touting.
8. Whoever shall, whether licensed as a tout or not, enter into or upon any farm, land, or premises without the consent, in writing, of the owner or occupier thereof, or his lawful representative, for the purpose of procuring or attempting to procure, plying, or seeking for Natives as a tout, shall be liable, on conviction thereof before any Magistrate, to be imprisoned with or without hard labour for any term not exceeding six months, and, if holding a license under this Act, to forfeiture of such license, and the burden of proof that he entered into, or upon such farm, land, or premises, without intent to contravene the provisions of this Act, shall rest upon the accused. Entry on private premises to tout.

Act 36, 1896.

Punishment for
persuading ser-
vants to desert.

9. 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, shall, on conviction thereof before any Magistrate, be liable 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.

Harbouring de-
serters.

10. Whoever shall (whether a licensed tout or not) conceal, employ, or retain, or counsel, aid, or abet in concealing, employing, or retaining (A), 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 Ten 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.

Falsely wearing
a badge.

11. Whoever shall (not having obtained any such license as afore-said) be found wrongfully wearing any badge required to be worn under regulations passed under this Act, shall be liable, on conviction thereof before any Magistrate, to pay a fine not exceeding Five Pounds Sterling, or in default of payment to be imprisoned, with or without hard labour, for any term not exceeding three months.

Refusal to show
license or badge.

12. 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 or badge, 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.

Rules.

13. The Governor in Council may from time to time make, amend, and repeal rules and regulations for carrying out the provisions of this Act, and may impose for contravention thereof any penalties not exceeding in each case a fine of Five Pounds Sterling, or alternative imprisonment not exceeding three months. All such rules and regulations shall, whilst in force, have the same effect as if enacted in this Act.

Publication,
&c., of Rules.

14. All rules and regulations made under this Act shall be promulgated in the "NATAL GOVERNMENT GAZETTE," and shall be laid before the Legislative Council and Legislative Assembly as soon as may be after they are made.

Saving of other
actions, &c.

15. 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.

(A) In order to support a conviction under this sec. guilty knowledge must be proved (*Reg. v. McKenzie*, 18 N.L.R. 10).

LADYSMITH CORPORATION.

Law No. 15, 1890.

“To enable the Ladysmith Local Board to borrow a sum not exceeding £25,000 for the purpose of supplying the Township of Ladysmith with water from the Klip River, to construct the necessary works for such purpose, to levy a Water Rate, and to prevent the pollution of water.”

[7th July, 1890.]

WHEREAS it is expedient to authorise the borrowing by the said Local Board of a sum of money not exceeding £25,000, to enable them to supply the Township of Ladysmith with water from the Klip River, and to levy a Water Rate, and to prevent the pollution of the water of the said River at or above or after being led from the point of diversion, and to exercise all powers necessary for the purposes aforesaid :

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

1. This Law may be cited as the “Ladysmith Loan and Waterworks Law of 1890.” Short title.
2. The Ladysmith Local Board are hereby authorised to borrow, from time to time, the moneys required for Waterworks for the Township of Ladysmith to an amount of £25,000, and no more. Authorisation of loan.
3. The moneys borrowed under this Law shall be applied to the object mentioned in the last preceding section, and to no other purpose. Application of moneys.
4. The sums authorised to be borrowed under this Law, and the interest payable thereon, shall be a charge upon the rates and rents and revenues of the Township. Sums borrowed and interest to be charged on rates, &c.
5. In case the interest payable on any moneys borrowed under this Law 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 Township, which is now or hereafter be liable to be rated for Township purposes under Law 11 of 1881 and Law 39 of 1884, to the intent that all arrear interest may be paid out of the proceeds of such special rate. Provision for special rate in case of default of payment of interest.
6. The moneys borrowed under this Law shall be repayable within thirty years from the date of borrowing. Repayment of loan.
7. In case any moneys borrowed under this Law 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 in terms of this Law, 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. Provision for sale of Town Lands and for special rate in case of default of payment of moneys borrowed.
8. The moneys hereby authorised to be borrowed shall be raised upon Stock to be called “The Ladysmith Local Board Stock,” hereinafter referred to by the word “Stock.” Moneys to be raised upon Stock.

Law 15, 1890.
Issue of Stock.

9. 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 Local Board in the Township of Ladysmith.

Interest upon
Stock.

10. 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 township, 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.

Transfer of
Stock.

11. Such Stock shall be transferable by transfer in the books in which the same shall be entered, and every person to whom any such credit as aforesaid shall have been given in the said books in the first instance, or to whom any such transfer shall thereafter have been made in 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.

Stock certifi-
cates.

Stock, how to be
disposed of.

12. 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 Local Board).

Certain instruc-
tions may be
given by author-
ity of the Local
Board.

13. The Chairman of the Local Board when thereto authorised by resolution of the Board, may from time to time give to the Town Clerk such instructions as to the Chairman may seem fit, 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.
- (c) For paying interest on Stock.
- (d) For issuing Stock certificates.

Incorporation
of Law 16, 1872.

14. For the purpose of the construction of the works by this Law authorised, the Lands Clauses Consolidation Law, 1872 (Law 16 of 1872), and all the clauses and provisions thereof (save in so far as they shall be expressly varied or excepted by this Law), shall be incorporated with this Law.

Authority to
take lands.

15. The Ladysmith Local Board may purchase or take such lands as may be required for the purposes of the works and undertakings authorised by this Law.

Authority to
construct cer-
tain works, &c.

16. The Ladysmith Local Board are authorised to construct all works and to do all things necessary for damming up the Klip River at a spot situate within one mile above the drift, known as "Thornhill's Drift," on the remainder of the farm "Eendvogelvley," in the County of Klip River, 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 "Eendvogelvley," and through the Town Lands and Township of Ladysmith, and for leading water through such pipes, and for storing part of such water in or near to the Town Lands of the Township of Ladysmith, 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 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 Law.

Route of water
pipes.

17. The route of the water-pipes shall follow as near as may be the line laid down in a map or chart filed with the Clerk of the Legislative Council and in the Local Board Office in Ladysmith.

18. If the taking, impounding, diversion, appropriation, or conveyance of water under the authority of this Law 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. **Law 15, 1890.**
Compensation for deprivation of water or water right.
19. The Ladysmith Local Board may in the year 1891, and in each succeeding year, levy a water rate, not exceeding Two Pence Half-penny in the Pound sterling, upon any portion of the immovable property situate within the Township which is liable to be rated under Law 11 of 1881, and Law 39 of 1884; and which portion shall be brought within two hundred and twenty yards of the water service. **Water rate.**
20. For the purposes of the water rates authorised by this Law, sections 38, 39, 42, 43, 44, 47, and 48 of Law 11 of 1881, and sections 12, 13, and 14 of Law 39 of 1884, shall be construed conjointly with this Law. **Certain Secs. of Laws 11, 1881, and 39, 1884, to be construed with this Law.**
21. The powers to make By-laws given to Local Boards, under Law 11 of 1881, are extended to the Ladysmith Local Board for all the purposes of this Law. **By-laws.**
22. The Ladysmith Local Board may regulate and control the mode of supplying water on to private property and 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 residing outside the Township boundaries. **Tariff of charges**
23. If any person shall pollute the waters of the Klip River above the point of diversion authorised by this Law, or any water led from the said river under the authority of this Law, 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 Resident Magistrate having jurisdiction, shall be liable to a penalty for each offence not exceeding £10, to be paid to the Township 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 Law may be prosecuted by any officer appointed on that behalf by the Ladysmith Local Board. **Offences.**
Penalties.
Prosecution.
24. The 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 written or printed notice, given not less than twenty-four nor more than forty-eight hours before the inspection. **Right of Inspection.**
25. This Law shall commence and take effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (A). **Commencement**

(A) October 7, 1890.

Act No. 39, 1899.

“To confer borrowing powers upon the Town Council of Ladysmith, in addition to the powers heretofore given to the Local Board of Ladysmith for the purpose of enabling the Town Council to provide for the improvement and extension of the water supply.”

[11th September, 1899.]

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 provide for the improvement and extension of the water supply :

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:—

Authorisation of loan.

1. The Town Council of the Borough of Ladysmith is hereby authorised to borrow from time to time the moneys required for the extension and improvement of the Town Water Supply to an amount not exceeding Twenty Thousand Pounds Sterling.

Application of loan.

2. The moneys borrowed under this Act shall be applied to the object mentioned in the last preceding section and no other object.

Law 16, 1872, incorporated.

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.

Purchase of 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 undertakings authorised by this Act.

Issue of 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) 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 shall be a charge upon and shall, with the interest thereon, be payable out of the rents, rates, and revenues of the Borough in the same way as the stock issued under the said Law No. 15 of 1890.

Incorporation of certain Secs. of Law 15, 1890.

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.

Sinking Fund.

7. From and after the taking effect of this Act, there shall be created by the Town Council of Ladysmith a Fund called the “Waterworks Loan Sinking Fund,” to which Fund shall be paid by the said Town Council 50 per cent. of the proceeds of all town lands sold until such Fund shall amount to £45,000 sterling.

Security for moneys borrowed.

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 the said Law and this Act.

Application of interest.

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.

Town Council authorised to do certain works to carry out the objects of this Act.

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 Assembly, and to lead

such water through pipes and conduits, and to lay such pipes and conduits within the area shown 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 works, 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. Act 39, 1899.

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 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. Compensation for deprivation of water or right of water.

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. Certain sections of Law 15, 1890, to apply to water supplied by works authorised in this Act.

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. Power to make by-laws.

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. Punishment for pollution of water, obstruction of officer, and damage to property.

15. This Act shall commence and take effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (A). Commencement

LANDLORD AND TENANT.

[See "HYPOTHECS."]

(A) Sept. 19, 1899.

LANDS CLAUSES CONSOLIDATION.

Law No. 16, 1872. (A)

“ For authorising the taking of Lands for undertakings of a Public Nature.”

[3rd December, 1872.]

WHEREAS it is expedient to make provision for the acquisition of lands required for undertakings and works of a public nature, and for the compensation to be made for the same :

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

Law to apply to all undertakings authorised by Laws hereafter to be passed.

1. This Law shall apply to every undertaking authorised by any Law which shall hereafter be passed, and which shall authorise the purchase or taking of lands for such undertaking, and this Law shall be incorporated with such Law, and all the clauses and provisions of this Law, save so far as they shall be expressly varied or excepted by any such Law, shall apply to the undertaking authorised thereby, so far as the same shall be applicable in such undertaking, and shall, as well as the clauses and provisions of any other which shall be incorporated with such Law, form part of such Law, and be construed together as forming one Law.

Interpretation. “ Special Act (or Law); ”

2. The expression “ Special Act ” or “ Special Law ” used in this Law, shall be construed to mean any Law which shall be hereafter passed which shall authorise the taking of lands for the purpose to which the same relates, and with which this Law shall be so incorporated as aforesaid; and the expression “ Works and Undertakings ” shall mean the works and undertakings of whatever nature which shall by special Law be authorised to be executed; and the expression “ Company; ” shall mean and include the parties, whether the Colonial Government of Natal, Company, Commissioners, Trustees, or Corporation, or private persons, by the special Act empowered to execute such works or undertakings (b).

“ Works and undertakings; ”

“ Company; ”

Definition of words.

3. The following words and expressions in this Law, and in any special Law, shall have the several meanings hereby assigned to them, unless there be, either in the subject or context, something repugnant to such construction, that is to say—

Number.

Words importing the singular number only shall include the plural number; and words importing the plural number only shall include the singular number.

Gender.

Words importing the masculine gender shall include the feminine.

“ Lands.”

The word “ Lands ” shall extend to all lands, messuages, houses, tenements, whether held under freehold grant from the Crown, or under quit-rent tenure, or under lease.

“ Lease.”

The word “ Lease ” shall include an agreement for a lease.

“ Month.”

The word “ Month ” shall mean a calendar month.

“ Oath.”

The word “ Oath ” shall include affirmation, declaration, or caution, lawfully substituted for an oath by any Law or Ordinance in force in Natal.

(A) Compare this Law with 8 & 9 Vic. c. 18.

(B) It will be seen that the expression “ company ” in this Law is mainly equivalent to the expression “ promoters of the undertaking ” in 8 & 9

Vic. c. 18; so that where the latter phrase, or the word “ promoters,” occurs in citations of English decisions given in the footnotes to this Law “ company ” may, in general, be understood.

The word "County" shall include any division of a county.

The word "Sheriff" shall include Deputy-Sheriff.

And when any matter in relation to any lands is required to be done by any "Sheriff," or by any "Clerk of the Peace," the expression "Sheriff" or "Clerk of the Peace" shall, in such case, be construed to mean the Sheriff or Deputy-Sheriff, or the Clerk of the Peace, for the county, or division, or place where such lands shall be situate.

The expression "Resident Magistrate," or "Justice of the Peace," shall mean Resident Magistrate, or Acting Resident Magistrate, or Justice of the Peace, acting for the county, or division, or place where the matter requiring the cognisance of any such Resident Magistrate or Justice of the Peace shall arise, and who shall not be interested in the matter.

Where, under the provisions of this Law, or the special Law, or any Law incorporated herewith, any notice shall be required to be given to the owner of any lands, or where any act shall be authorised or required to be done with the consent of any such owner, the word "Owner" shall be understood to mean any person or corporation who, under the provisions of this Law, or the special Law, would be enabled to sell and transfer lands to the promoters of the undertaking.

The words "Owner" or "Parties" shall be understood to mean and include any person, or corporation, or public company, guardian, curator, or tutor, who, under the provisions of this or any other Law or Ordinance in Natal, would be enabled to sell and transfer lands to the promoters of the undertaking.

4. In citing this Law in other Laws to be passed in this and in any future session in Natal, and in legal instruments, it shall be sufficient to use the expression, "The Lands Clauses Consolidation Law, 1872."

5. Whenever it may be convenient to incorporate, with Laws hereafter to be passed, some portion only of the provisions of this Law, in making any such incorporation it shall be sufficient in any such Law to enact that the clauses of this Law—with respect to the matter so incorporated—shall be incorporated with such Law; and thereupon all the provisions of this Law, with respect to the matter so incorporated, shall, save so far as they shall be expressly varied or excepted by such Law, form part of such Law, and such Law shall be construed as if the substance of such clauses and provisions were set forth therein, with reference to the matter to which such Law shall relate.

6. When and so often as any company authorised to make a railway, to which this Law applies, shall require to purchase or take any lands which they may by this or any special Act, be authorised to purchase or take, the said Railway Company shall cause to be made out and to be signed by their engineer and resident secretary, maps or plans and schedules of the land so required, and also of the works which the Company propose to make and maintain for the accommodation of lands adjoining the railway, together with the names of the registered owners, lessees, or reputed lessees and occupiers of said land respectively, so far as the same can be reasonably ascertained, and such map or plan shall be upon a scale of not less than one inch to every two hundred feet, and the said company shall deposit such map or plan one month before the petition to introduce such special Bill shall be presented to the Legislative Council, at the office of the clerk of the Legislative Council; and a copy of such portion of such map or plan as relates to each county in or through which the railway is proposed to be made, in the office of the Resident Magistrate of such county; and such map or plans shall, during office hours, be open to the inspection of the public.

7. Subject to the provisions of this Law and of the special Law or of any Law incorporated therewith, the company may enter upon, take,

Law 16, 1872.

"County,"
"Sheriff."

"Clerk of the
Peace."

"Resident
Magistrate."
"Justice of the
Peace."

"Owner."

"Owner,"
"Parties."

Short title.

Form in which
portions of this
Law may be in-
corporated with
other Laws.

Company to
have maps or
plans made of
lands required;

And Schedules
of owners,
lessees, and
occupiers.

Map to be de-
posited at office
of clerk to Leg-
islative Council;

And copy of
portion relating
to each county
at Resident
Magistrate's
Office.

Power of taking
lands.

Law 16, 1872. and use all lands required for the undertaking, and authorised and sanctioned by this Law, or the special Law, or any Law incorporated therewith.

Power to purchase land by agreement.

8. Subject to the provisions of this and the special Law, the company may agree with the owners of any land by the special Law authorised to be taken, and which shall be required for the purposes of such Law (A), and with all parties having any interest in such lands, or by this or the special Law, enabled to sell and transfer the same, for the absolute purchase, for a consideration in money (B), of any such lands or such parts thereof as they shall think proper (C).

Parties under disability enabled to sell and convey.

9. It shall be lawful for all corporations, fiduciary heirs, or fideicommissary heirs, married women married without community of goods, guardians, curators, or trustees under marriage settlements, or holding lands for native purposes, and all other trustees, executors, and administrators, and all parties being seized, possessed of, or entitled to the receipt of rents or profits of any such lands in possession, or subject to any lease, to sell, transfer, and convey the same and all their right, title, interest, claim and demand therein, to the company, and to enter into all necessary agreements for that purpose.

Amount of compensation in case of parties under disability to be ascertained by valuation, and deposited with Master of Supreme Court.

10. The purchase money or compensation to be paid for any lands to be purchased or taken from any party under any disability or incapacity, and not having power to sell and transfer any lands, except under the provisions of this Law, and the compensation to be paid for the taking of any such lands, and for any permanent damage, the (D) injury to any such lands, shall not, except where the same shall have been determined by the verdict of a jury, or by arbitration, be less than shall be determined by the valuation of two competent appraisers or surveyors, one of whom shall be nominated by the secretary of the company, and the other by the other party; and if they (E) cannot agree (F), then by such third person as the Supreme Court shall, upon application of either party, after notice to the other, for that purpose nominate; and all such purchase money or compensation shall be deposited with the Master of the Supreme Court, for the benefit of the parties interested.

Where person is absolutely entitled, lands may be leased to company.

11. Any person entitled to dispose absolutely for his own benefit of any lands authorised to be purchased for the purposes of this Law, or any corporation, may, when so requested by the company, grant any lease or leases of such lands, or any part thereof, to the company, in consideration of an annual rent charge, payable by the company; And it shall be lawful for the company to hold such lands, under such lease or leases, and to enter into such usual covenants as may be necessary for the purposes of such lease: Provided that this section shall not apply to any lands required by the Colonial Government of Natal for the construction of a railway.

Proviso.

12. Such annual rents shall be charged on the tolls or rates, if any, payable under this or the special Law, and may be otherwise secured in such manner as may be agreed between the parties, or any corporation and the company, and shall be payable by the company at the time when such rents are made payable; and if not paid may be

Payment of rents to be charged on tolls.

(A) The promoters have no right to enter into any project not pointed out by their Act, although it may tend to increase the profits of the undertaking, and may be assented to by the majority of the shareholders (*Coleman v. Eastern Counties Railway Co.*, 4 Railway C. 513; 10 Beav. 1).

(B) Nothing is said as to when such consideration is to be paid (per Wigram,

V.C., *Hutton v. L. & S.W. Railway Co.* 7 Hare. 264).

(C) See sec. 53, post.

(D) The word "the" is probably a misprint for "or"; cf. 8 & 9, Vic., c. 18, s. 9.

(E) "They" means the appraisers or surveyors, cf. 8 & 9, Vic., c. 18.

(F) See *Wycombe Rail Co. v. Dennington Hospital*, L.R. 1, Ch. 268.

recovered by an action at law, and the goods and chattels of the company shall be liable to be levied and sold, in satisfaction of any judgment of any competent court, for such rent in arrear, and for the costs incurred in such action: Provided always, that the provisions of this section shall not apply to the Colonial Government of Natal.

Law 16, 1872.

Proviso.

13. It shall be lawful for the company, from time to time, to sell and transfer any lands which they may have acquired for extraordinary purposes, or any part thereof, and again to purchase other lands of the same extent for the like purpose.

Authority to sell lands, and purchase other lands, for extraordinary purposes.

14. The company shall not, by virtue of the power to purchase land for extraordinary purposes, purchase more than the prescribed quantity from any party under legal disability, or who would not be able to sell and transfer such lands, except under the powers of this or the special Law; and if the company purchase the said quantity of land from any party under such legal disability, and afterwards sell the whole or any part thereof, it shall not be lawful for any such party, being under legal disability, again to sell to the company any other lands in lieu of the lands so sold or disposed of by them.

Restraint on purchase from incapacitated persons.

15. When the company shall require to purchase or take any of the lands which by this and the special Law or any Law incorporated therewith they are authorised to purchase or take, they shall, by their secretary, or attorney, give one month's notice (A) thereof to the owners thereof, or to the parties enabled by this Law to sell, transfer, or lease the same; and by such notice shall demand the particulars of their estate and interest in such land and of the claims made by them in respect thereof; and every such notice shall state the particulars of the land so required (B), and that the company is willing to treat for the purchase thereof, and as to the compensation to be made to all parties for the damage that may be sustained by them by reason of the execution of the works (C).

Notice of intention to take land.

16. All notices required to be served by the company upon the parties interested in, or entitled to sell any such lands, shall either be served personally (D) on such parties, or left at their last usual place of abode; and in case any such parties shall be absent from the Colony, all such notices shall also be left with the occupier of such land, or, if there be no occupier, shall be published in the "GOVERNMENT GAZETTE" of the Colony, and left with the Registrar of Deeds.

Service of notices on owners and occupiers of lands.

17. If service of such notice be required to be made on either of the Corporations of Pietermaritzburg or Durban, service at the Town Clerk's office shall be a good service on such corporation to be affected by such notice.

Service of notices on Pietermaritzburg or Durban Corporation.

(A) No particular period is specified in the corresponding section of the English Act.

(B) See sec. 6, ante, as to plans.

(C) The "notice to treat" should state accurately the quantity and situation of the land proposed to be taken (see *Stone v. Commercial Railway Co.*, 4 My. & C. 124). As to revocation of notice, see *Reg. v. Hungerford Market Co.*, 4 B. & Ad. 327; *Sparrow v. O.W. & W. Railway Co.*, 21 L.J., Ch. 731. But the notice does not of itself entitle either the party or the promoters to specific performance (*Haynes v. Haynes*, 30 L.J., Ch. 578), although the owner can no longer deal with the property and may be restrained from selling it by auction (*Met. Railway Co. v. Woodhouse*, 34 L.J., Ch. 387.)

As to specific performance where notice acted upon, &c., see *Watts v. Watts*, L.R., 17 Eq. 217; *Harding v. Met. Railway Co.*, L.R., 7 Ch. 154; 41 L.J., Ch. 371.

As to abandonment by delay, see *Hedges v. Met. Railway Co.*, 28 Beav. 109; *Stretton v. G.W. & Brentford Railway Co.*, L.R., 5 Ch. 751.

The power of the promoters is not exhausted by one notice; they may issue a second notice (*Stamps v. Birmingham &c., Railway Co.*, 7 Hare, 251; *Errington v. Met. Dist. Railway Co.*, 19 Ch. D. 559—C.A.)

(D) As to insufficient service, see *Shepherd v. Norwich Corporation*, 30 Ch. D. 553.

Law 16, 1872.

How question to be settled when parties fail to treat, or in case of dispute.

18. If, for sixty days after the service of such notice any such party shall fail to state the particulars of his claim in respect of any such land, or to treat with the company in respect thereof, or if such party and the company shall not agree as to the amount of compensation to be paid for the interest in such lands, belonging to such a party, or which he is by this or the special Law enabled to sell, or for any damage that may be sustained by him by reason of the execution of the works, the amount of such compensation shall be settled in the manner hereinafter provided for settling cases of disputed compensation (A).

Compensation where amount claimed does not exceed £100 to be settled by Resident Magistrate.

19. If no agreement be come to between the company and the owner of or parties by this or the special Law enabled to sell and convey, or lease, any lands taken or required for, or injuriously affected by the execution of the undertaking, or any interest in such lands, as to the value of such lands, or of any interest therein, or as to the compensation to be made in respect thereof, and if in any such case the compensation claimed shall not exceed one hundred pounds, the same shall be settled by the Resident Magistrate of the county in which such lands shall be situate.

Compensation exceeding £100 to be settled by arbitration or Supreme Court, at the option of the party claiming.

20. If the compensation claimed or offered in any such case shall exceed one hundred pounds, and if the party or parties claiming compensation desire to have the same settled by arbitration, and signify such desire by notice in writing to the secretary of the company, stating in such notice the nature of the interest in respect of which such party or parties claim compensation, and the amount of the compensation so claimed, the same shall be so settled accordingly; but, unless the party claiming compensation shall, as aforesaid, signify his desire to have the question of such compensation settled by arbitration, or if, when the matter shall have been referred to arbitration, the arbitrators or their umpire shall, for two months, have failed to make their or his award, or if no final award shall be made, the question of such compensation shall be settled by action to be instituted in the Supreme Court of the Colony of Natal.

Method of proceeding for settling disputes as to compensation by Magistrates.

21. It shall be lawful for the Resident Magistrate of the county in which any such lands may be situated, upon the application of either party, with respect to any question of disputed compensation by this or the special Law or any Law incorporated therewith to be so settled, to summon the other party to appear before him at a time and place to be named in the summons; and upon the appearance of such parties, or in the absence of any of them, upon proof of due service of the summons, it shall be lawful for such Magistrate to hear and determine such question, and for that purpose to examine such parties, or any of them, and their witnesses upon oath; and the costs of every such inquiry shall be in the discretion of such Magistrate, and he shall settle the amount thereof.

Appointment of arbitrator when questions are to be determined by arbitration.

22 (B). When any question of disputed compensation, by this or the special Law or any Law incorporated therewith authorised or required to be settled by arbitration, shall have arisen, then, unless both parties shall concur in the appointment of an arbitrator, each party, on

(A) It would seem that the company can only put in force the powers of the Statute in respect of the lands contained in the notice (see per Lord Cottenham, *Stone v. Commercial Railway Co.*, 4 Myl. & Cr. 122; 1 Railway C. 375).

(B) Cf. 8 & 9 Vic. c. 18, s. 25, under which it was decided where the Surveyor of a railway company had, in that character, treated with a landowner, and offered a price for the land required by

the company, and being subsequently named by the company acted as their arbitrator upon an arbitration under the Act; that he ought not to have been selected as an arbitrator, but that as the landowner, knowing the fact and though protesting against the propriety of the appointment, proceeded with the arbitration, he had waived the objection (*In re Elliott and South Devon Railway Co.*, 2, De Gex & S. 17.)

the request of the other party, shall nominate and appoint an arbitrator to whom such dispute shall be referred; and every appointment of an arbitrator shall be made on the part of the company under the hand of the secretary, or of any officer of the company lawfully authorised in that behalf and on the part of any other party under the hand of such party, or his agent thereunto lawfully authorised; or, if such party be a corporation aggregate, under the common seal of such corporation, and such appointment shall be delivered to the arbitrator (A), and shall be deemed a submission to arbitration on the part of the party by whom the same shall be made: And after any such appointment shall have been made, neither party shall have power to revoke the same without the consent of the other, nor shall the death of either party operate as a revocation; and if for the space of fourteen days after any such dispute shall have arisen, and after a request in writing in which shall be stated the matter so required to be referred to arbitration, shall have been served by the one party on the other party to appoint an arbitrator, such last-mentioned party fail to appoint such arbitrator, then, upon such failure, the party making the request, and having himself appointed an arbitrator, may appoint such arbitrator to act on behalf of both parties; and such arbitrator may proceed to hear and determine the matters which shall be in dispute (B), and in such case the award or determination of such single arbitrator shall be final (C).

23. If, before the matters so referred shall be determined, any arbitrator appointed by either party die or become incapable, the party by whom such arbitrator was appointed may nominate and appoint, in writing, some other person to act in his place; and if, for the space of fourteen days after notice in writing from the other party for that purpose, he fail to do so, the remaining or other arbitrator may proceed "ex parte": And every arbitrator so to be substituted as aforesaid, shall have the same powers and authorities as were vested in the former arbitrator at the time of such his death or disability as aforesaid, and for all intents and purposes shall be considered as if he were originally nominated as such arbitrator.

Vacancy of arbitrator to be supplied.

24. When more than one arbitrator shall have been appointed, such arbitrators shall, before they enter upon the matters referred to them, nominate and appoint, by writing under their hands, an umpire (D) to decide on any such matters on which they shall differ, or which shall be referred to him, under the provisions of this or the special Law, and if such umpire shall die or become incapable to act, they shall forthwith, after such death or incapacity, appoint another umpire in his place, and the decision of every such umpire on the matter so referred to him shall be final.

Appointment of umpire.

25. If, in either of the cases aforesaid, the said arbitrators shall refuse, or shall, for fourteen days after request of either party to such arbitration, neglect to appoint an umpire (E), the Supreme Court of the Colony of Natal shall, on the application of either party, appoint an umpire; and the decision of such umpire on the matters on which the arbitrators shall differ, or which shall be referred to him under this or the special Law, shall be final.

Supreme Court to appoint an umpire on neglect of the arbitrators.

(A) If the company, before the delivery of the appointment, though after the twenty-one days, make a tender under the 46th section, that will be in time (*Yates v. Blackburn, Mayor of*, 29 L.J., Ex. 447).

(B) *In re Ware*, 9 Exch. 395; 23, L.J., Ex. 145.

(C) To entitle a party to appoint an arbitrator to act for both parties, under this section, he should first appoint his

own arbitrator, and give notice of such appointment to the company, before he requests them to appoint their arbitrator (*In re Bradley and L. & N.W.R. Co.*, 1 L.M. & P. 597).

(D) As to private consultation of arbitrators with umpire before umpirage, see *Skerratt v. North Staffordshire Railway Co.*, 17 L.J., Ch. 161.

(E) See *In re South Yorkshire, &c., Railway Co.*, 18 L.J., Q.B. 333.

Law 16, 1872.

In case of death of single arbitrator, the matter to begin *de novo*.

If either arbitrator refuse to act, the other to proceed *ex parte*.

If arbitrators fail to make award within twenty-one days, the matter to go to the umpire.

Power of arbitrators to call for books, &c.

Arbitrator or umpire to make a declaration.

Costs of arbitration, how to be borne.

26. If, when a single arbitrator shall have been appointed, such arbitrator shall die or become incapable to act before he shall have made his award, the matters referred to him shall be determined by arbitration under the provisions of this or the special Law in the same manner as if such arbitrator had not been appointed.

27. If, when more than one arbitrator shall have been appointed, either of the arbitrators refuse, or for fourteen days neglect to act, the other arbitrator may proceed "ex parte," and the decision of such other arbitrator shall be as effectual as if he had been the single arbitrator appointed by both parties.

28. If, where more than one arbitrator shall have been appointed, and where neither of them shall refuse or neglect to act as aforesaid, such arbitrators shall fail to make their award within twenty-one days after the day on which the last of such arbitrators shall have been appointed, or within such extended time (if any), as shall have been appointed for that purpose by both such arbitrators under their hands, the matters referred to them shall be determined by the umpire to be appointed as aforesaid (A).

29. The said arbitrators, or their umpire, may call for the production of any document in the possession or power of either party, which they or he may think necessary for determining the question in dispute, and may examine the parties or their witnesses on oath, and administer the oaths necessary for that purpose.

30. Before any arbitrator or umpire shall enter into the consideration of any matters referred to him, he shall, in the presence of a Justice of the Peace, make and subscribe the following declaration, that is to say:—

"I, A. B., do solemnly and sincerely declare that I will faithfully and honestly, and to the best of my skill and ability, hear and determine the matters referred to me, under the provisions of this or the special Law (B).

(Signed) " A. B.

Made and subscribed in the presence of

And such declaration shall be annexed to the award when made; and if any arbitrator or umpire, having made such declaration, shall wilfully act contrary thereto, he shall be guilty of, and be liable to be prosecuted for the crime of perjury, and on conviction shall suffer all the pains and penalties imposed by law for the commission of such crime.

31. All the costs of any such arbitration and incident thereto to be settled by the arbitrators (c), shall be borne by the company, unless the arbitrators shall award the same or a less sum (d) than shall have been offered (e) by the company, in which case each party shall bear his own

(A) Cf. s. 31 of 8 & 9 Vic. c. 18, and see *Bradshaw's Arbitration*, 12 Q.B. 562.

(B) It would seem advisable to name the special Law.

(C) Cf. s. 34 of 8 & 9 Vic. c. 18. The "arbitrators" are in truth valuers, and have no power to hear any evidence as to what was the amount of the previous tender so as to form any ground of determination as to who should pay costs (per Parke, B., *Gould v. Staffordshire Potteries Waterworks Co.*, 5 Exch. 214; 1 L.M. & P. 264.

(D) See *In re Wilts, &c., Railway Co. v. Foadis*, 3 Exch. 728; *Reg. v. Biram*, 17 Q.B. 969.

(E) Under this sec. the claimant would be entitled, on a reference under sec. 22,

to the costs, although no sum was offered, in consequence of the claimant not having given any notice under sec. 46, of the amount claimed (*Martin v. Leicester Waterworks Co.*, 27 L.J., Ex. 432; 3 Exch. 463). The company are not bound by their first offer, but may make an amended one; and if an arbitrator award a sum less than that named in the amended offer, made in time, the claimant is not entitled to costs (*Earl Fitzhardinge v. Gloucester & Berkeley Canal Co.*, L.R., 7 Q.B. 776; 41 L.J., Q.B. 316; 27 L.T. 196). An offer made after the commencement of the arbitration is not made in time (*Gray v. N.E. Railway Co.*, 1 Q.B.D. 696).

costs incident to the arbitration; and the costs of the arbitrators shall be borne by the parties in equal proportions (A). **Law 16, 1872.**

32. The arbitrators shall deliver their award, in writing, to the secretary or other proper officer of the company; and the said secretary or other proper officer shall retain the same, and shall forthwith on demand, at the company's expense, furnish a copy thereof to the other party to the arbitration, and shall at all times, on demand, produce the said award, and allow the same to be inspected or examined by such party, or any person appointed by him for that purpose (B). **Award to be delivered to the company.**

33. The submission to any such arbitration may be made a rule of the Supreme Court on the application of either of the parties (c). No award made with respect to any question referred to arbitration under the provisions of this or the special Law shall be set aside for irregularity or error in matter of form. Twenty days' notice shall be given by the company to the other parties of the time when, and the place where it is intended to hold the arbitration. **Submission may be made a rule of court. Award not void through error in form. Notice by company of time and place of arbitration.**

34. (d) Before the company shall commence legal proceedings in any Court for settling any case of disputed compensation, they shall give no less than twenty days' notice to the other party of their intention to commence such legal proceedings, and in such notice the company shall state what sum of money they are willing to give for the interest in such lands sought to be purchased by them from such party, and for the damage to be sustained by him by the execution of the works. **Company to give notice before commencing legal proceedings.**

35. If any person duly summoned to give evidence either before arbitrators or a court of law, and to whom a tender of his reasonable expenses shall have been made, fail to appear at the time and place specified in the summons, without sufficient cause, or if any person, whether summoned or not, who shall appear as a witness, refuse to be examined on oath touching the subject matter in question, every person so offending shall forfeit to the party aggrieved a sum not exceeding ten pounds. **Penalty on witnesses making default.**

36. If any costs shall be payable by the company, and if within seven days after demand such costs be not paid to the party entitled to receive the same, they shall be recoverable by execution and sale; and if any such costs shall be payable by the owner of the lands or of any interest therein, the same may be deducted and retained by the company out of any money awarded to such owner, or determined by the valuation of a surveyor, under the provisions hereinafter contained; and the payment or deposit of the remainder, if any, of such money, shall be deemed payment and satisfaction of the whole thereof, or if such costs shall exceed the amount of the money so awarded or determined, the excess shall be recoverable by execution. **Payment of costs.**

37. If either party desire that any such question of disputed compensation as aforesaid be tried before a jury, such question shall be so

(A) *Semble*, the provisions of this sec. do not apply to arbitrations under Law 19, 1875 (*Raw v. Res. Engineer, N.G.R.*, 6 N.L.R. 49).

(B) See *Reg. v. South Devon Railway Co.*, 23 L.J., Q.B. 145.

(c) See *In re Ware*, 9 Exch. 395; 23 L.J., Ex. 145.

(d) Cf. s. 38 of 8 & 9 Vic. c. 18. This sec. seems to apply only to cases where the company are about to take or injuriously affect land in the possession of the claimant, and in such case they are bound to give the claimant 20 days' notice of their intention to take proceedings; but such notice would not be required where the company have

already taken possession of, or injuriously affected land, but for which no compensation has been made. Such a case would be regulated by sec. 46. So much at least seems to follow from the decision in *Railstone v. York, Newcastle, &c., Railway Co.*, 19 L.J., Q.B. 464; 15 Q.B. 404.

See also *Mouchet v. G.W. Railway Co.*, 1 B.C., 537; *Lancaster, &c., Railway Co., v. Maryport, &c., Railway Co.*, 4 Railway C. 504, from which it seems to follow that the Court can only assess the value of the property which the Law authorises the company to take, therefore any proceeding respecting land which the company are not entitled to take would be a nullity.

Law 16, 1872.

Trial before a jury may be had at request of either party.

Compensation to absent parties to be determined by a surveyor appointed by Supreme Court.

Surveyor, how appointed.

Declaration to be made by the surveyor.

Valuation, &c., to be produced to the owner of the lands on demand.

Expenses of valuation.

Purchase-money and compensation, how to be estimated.

tried, provided that notice of such desire be served on the opposite party, and on the Registrar or Clerk of the Court having jurisdiction to try cases by jury, where such case is to be tried; and thereupon such proceedings shall be had and taken as are usual and necessary in cases for trial before a jury in the Supreme Court, or other competent Court.

38. The purchase money or compensation to be paid for any lands to be purchased or taken by the Company from any party who, by reason of absence from the Colony, is prevented from treating, or who cannot, after diligent inquiry, be found, and the compensation to be paid for any permanent injury to such land shall be such as shall be determined by the valuation of such practical surveyor as the Supreme Court shall nominate for that purpose (A).

39. The Supreme Court shall, upon application by the secretary or other proper officer of the company, and upon such proof as shall be satisfactory to it, that any such party is, by reason of absence from the Colony, prevented from treating, or cannot after diligent enquiry be found, or that any such party fail to enter any appearance in any suit instituted in such Supreme Court, after due notice to him for that purpose, nominate an able practical surveyor for determining such compensation; and such surveyor shall determine the same accordingly, and shall annex to his valuation a declaration in writing subscribed by him of the correctness thereof.

40. Before such surveyor shall enter upon the duty of making such valuation as aforesaid, he shall make and subscribe in the presence of a Justice of the Peace, the declaration following at the foot of such nomination, that is to say—

“I, A. B., do solemnly and sincerely declare that I will faithfully, impartially, and honestly, according to the best of my skill and ability, execute the duty of making the valuation hereby referred to me.

A. B.

Made and subscribed in the presence of

And if any surveyor shall corruptly make such declaration, or having made such declaration shall wilfully act contrary thereto, he shall be guilty of, and be liable to be prosecuted for the crime of perjury, and on conviction shall suffer all the pains and penalties imposed by law for the commission of such crime. The said nomination and declaration shall be annexed to the valuation to be made by such surveyor, and shall be preserved, together therewith, by the company; and they shall at all times produce the said valuation and other documents on demand, to the owner of the lands comprised in such valuation, and to all other parties interested therein. All the expenses of, and incident to, every such valuation shall be borne by the company.

41. In estimating the purchase money or compensation to be paid by the company in any of the cases aforesaid, regard shall be had by the Supreme Court or Magistrate's Court having jurisdiction, arbitrator, or surveyors, as the case may be, not only to the value of the land to be purchased or taken by the company, but also to the damage, if any, to be sustained by the owner of the lands, by reason of severing (B) the lands taken from the other lands of such owner, or otherwise

(A) Cf. s. 58 of 8 & 9 Vic. c. 18, under which, the deed appointing the surveyor need not describe the lands to be valued (*Poynder v. G.N. Railway Co.*, 16 Sim. 3; 5 R.C. 196).

(B) Cf. s. 49 of 8 & 9 Vic. c. 18. Under which section it has been held that there may be a severing, although the lands be not physically contiguous.

Compensation has been held recoverable for the whole of a rifle range (*Holt v. Gaslight and Coke Co.*, L.R., 7 Q.B. 728; 41 L.J., Q.B. 351). Prospective value may be taken into account, as that the portion severed was valuable for building purposes (*Reg. v. Brown*, L.R., 2 Q.B. 630; 36 L.J., Q.B. 322). See also *In re Ware*, 9 Exch. 395.

injuriously affecting such other lands by the exercise of the powers of this Law, or the special Law or any Law incorporated therewith. Law 16, 1872.

42. When the compensation payable in respect of any lands, or any interest therein, shall have been ascertained by the valuation of a surveyor, and deposited with the Master of the Supreme Court, under the provisions herein contained, by reason that the owner of, or party entitled to convey such lands, or such interests therein as aforesaid, could not be found, or was absent from the Colony, if such owner or party shall be dissatisfied with such valuation, it shall be lawful for him, before he shall have applied to the Court for payment or investment of the monies so deposited under the provisions herein contained, by notice in writing to the company, to require the question of such compensation to be submitted to arbitration; and thereupon the same shall be so submitted accordingly, in the same manner as in other cases of disputed compensation hereinbefore authorised or required to be submitted to arbitration.

Where compensation to absent party has been determined by surveyor, the party may have same submitted to arbitration.

43. The question to be submitted to the arbitrators in the case last aforesaid shall be, whether the sum so deposited as aforesaid by the company was a sufficient sum, or whether any and what further sum ought to be paid or deposited by them.

Question to be submitted to the arbitrators.

44. If the arbitrators shall award that a further sum ought to be paid or deposited by the company, the company shall pay or deposit, as the case may require, such further sum, within fourteen days after the making of such award, or in default thereof, the same may be enforced by attachment, or recovered with costs by action or suit in the Supreme Court.

If further sum awarded, company to pay or deposit same within 14 days.

45. If the arbitrators shall determine that the sum so deposited was sufficient, the costs of and incident to such arbitration, to be determined by the arbitrators, shall be in the discretion of the arbitrators; but if the arbitrators shall determine that a further sum ought to be paid or deposited by the company, all the costs of and incident to the arbitration shall be borne by the company.

Costs of the arbitration.

46. If any party shall be entitled to any compensation (A) in respect of any lands or of any interest therein, which shall have been taken (B) for or injuriously affected (c) by the execution of the works, and for which the company shall not have made satisfaction, under the

Parties claiming compensation exceeding £100 may have the same settled by arbitration or by a competent court, at their option.

(A) This section, *mutatis mutandis*, substantially reflects the provisions of sec. 68 of 8 & 9 Vic. c. 18, on which the decisions given in this and following notes are founded:—

The sec. does not give the arbitrator jurisdiction to enquire into the title of the claimant's land (*Reg. v. L. & N.W. Railway Co.*, 23 L.J., Q.B. 185); nor to determine whether the company are excused from the obligation to pay by any collateral matter, such as whether an agreement by the promoters to build a wall has been broken, or whether the breach of such agreement was the cause of the land being injuriously affected (*In re Byles*, 25 L.J., Ex. 53).

(B) See *Imperial Gaslight Co. v. Broadbent*, 7 Clark, 600, and *Eaton v. Midland and G.W.R. Co.*, 10 Ir. L.R. 310.

(c) These words — “injuriously affected” — have been the subject of many conflicting decisions in England, but judgments of the House of Lords

seem to have settled the following points:—

The act for which compensation is claimed must be done in the lawful exercise of the statutory powers of the promoters (*Caledonian Rail. Co. v. Colt*, 3 Macq. 838). The damage must be such as would have been actionable had it not been done in the exercise of such powers (*Ricket v. Met. Rail. Co.*, L.R., 2 H.L. 175; 36 L.J., Q.B. 205). The damage must arise by reason of the execution of the works, and not from the use of them when executed (*Hammersmith Rail Co. v. Brand* L.R. 4 H.L. 171; 38 L.J., Q.B. 265).

Upon these principles, compensation has been held recoverable for the destruction of a draw-dock upon which the claimant's house abutted and used by him in the way of his business (*Met. Board of Works v. McCarthy*, L.R., 7 H.L. 243. This case was referred to in *Poynton v. Durban Corporation*, 18

Law 16, 1872. provisions of this or the special Law or any Law incorporated therewith (A); and if the compensation claimed in such case shall exceed the sum of one hundred pounds, such party may have the same settled either by arbitration or by some competent court, as he shall think fit; and if such party desire to have the same settled by arbitration, it shall be lawful for him to give notice in writing (B) to the company of such his desire (C), stating in such notice the nature of the interest in such lands in respect of which he claims compensation, and the amount of the compensation so claimed herein; and unless the company be willing to pay the amount of compensation so claimed, and shall enter into a written agreement for that purpose within twenty-one days after the receipt of any such notice from any party so entitled, the same shall be settled by arbitration (D) in the manner herein provided; or if the party so entitled as aforesaid desire to have such question of compensation settled by action at law, it shall be lawful for him to give notice in writing of such his desire to the company, stating such particulars as aforesaid; and unless the company are willing to pay the amount of compensation so claimed, and enter into a written agreement for that purpose, they shall, within twenty-one days after the receipt of such notice, call upon the other party to proceed by action at law, by notice in writing under the hand of the secretary, or other proper officer of the company, and in default thereof the company shall be liable to pay to the party so entitled the amount of compensation so claimed, and the same may be recovered by him with costs by action in the Supreme Court.

Upon tender or deposit of agreed or awarded compensation company entitled to transfer.

47. Upon tender of payment to the owner, or deposit with the Master of the Supreme Court, of the purchase money or compensation agreed or awarded to be paid in respect of any lands purchased or taken by the company, the owner of such lands (including in such term all parties by this Law enabled to sell or convey lands), shall, when required to do so by the secretary or other proper officer of the

N.L.R. 71); for narrowing a public road (*Becket v. Mid. Rail. Co.*, L.R., C.P. 82); for obstructing a public road and thus rendering houses less valuable (*Chamberlain's case*, 32 L.J., Q.B. 173); for crossing a private road (*Glover v. North Staffordshire Rail. Co.*, 20 L.J., Q.B. 376); for damage to goods (*Gattke's case*, 3 Mac. & G. 155; *Knock v. Met. Rail. Co.* L.R. 4 C.P. 131); for obstructing access to a ferry (*Cooling's case*, 19 L.J., Q.B. 25); and for obstruction of lights (*London Tilbury and Southend Rail. Co.*, in re 24, Q.B.D. 326—C.A.)

Upon the same principles, compensation has been held to be *not recoverable* for the destruction of a draw-dock where the claimant's interest was merely personal (*Reg. v. Met. Board of Works*, L.R., 4 Q.B. 358); nor for loss of custom by obstruction of the passage to a public-house (*Rickett's case*, L.R., 2 H.L., 175); nor for vibration by the use of a railway (*Brand's case*, L.R., 4 H.L. 171); nor for injury to the amenities for a house by a level crossing (*Caledonian Rail. Co.* 2 Macq. 229); nor for obstruction to a house by a hoarding (*Herring v. Met. Board of Works*, 34 L.J., M.C. 224); nor for tunnelling under a street, where the

claimant was a frontager (*Souch v. East London Rail. Co.*, L.R. 16 Eq. 108); nor for interference with a right of shooting (*Bird v. G. E. Rail. Co.*, 19 C.B., N.S. 268); nor for loss of traffic to a ferry by crossing a river by a bridge (*Hopkins v. G. N. Rail. Co.*, 2 Q.B.D. 224—C.A.)

As to rights of owner of lands taken being also owner of lands injuriously affected by works executed on lands taken, see *Essex v. Acton Local Board* 14 App. Cas. 153, affirming the *Stockport case*, 33 L.J., Q.B. 153.

The right to compensation in this Colony where land outside the 100ft. road reserve is injuriously affected by severance or otherwise is fully discussed in *Freeman v. Colonial Government*, 10 N.L.R. 71.

(A) See *Broadbent v. Imperial Gas-Light Co.*, 7 Clark, 600.

(B) A misnomer of the company will not vitiate the notice if it be not such as to mislead (*Eastham v. Blackburn Rail. Co.*, 9 Exch. 758).

(C) See *Glyn v. Aberdare Rail. Co.*, 28 L.J., C.P. 271.

(D) See *Yates v. Blackburn, Mayor of*, 29 L.J., Ex. 447.

company, duly transfer such lands to the company, or as they shall direct; and in default thereof, or if he fail to adduce a good title to such lands to the satisfaction of the said company, it shall be lawful for the Supreme Court, on the application of the secretary or other proper officer of the company, to order the Registrar of Deeds to transfer the same, and he is hereby authorised to transfer the same accordingly; and thereupon all the estate and interest in such lands of, or capable of being sold and conveyed by, the party between whom and the company such agreement shall have been come to, or as between whom and the company such purchase money or compensation shall have been determined by a competent Court or by arbitrators, or by the surveyor appointed by the Supreme Court as hereinbefore provided and shall have been deposited as aforesaid, shall vest absolutely in the company, and as against such parties and all parties on behalf of whom they are hereinbefore enabled to sell and transfer, the company shall be entitled to immediate possession of such lands (A).

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And Supreme Court may order transfer.

48. If the owner of any such lands purchased or taken by the company, or of any interest therein, on tender of the purchase money or compensation either agreed or awarded to be paid in respect thereof, refuse to accept the same, or neglect or fail to transfer such lands, or the interest therein claimed by him; or if he refuse to transfer or release such lands as directed by the company, or if any such owner be absent from the Colony, or cannot after diligent inquiry be found, or fail to appear before the Supreme Court, it shall be lawful for the company to deposit the purchase money or compensation payable in respect of such lands, or any interest therein, with the Master of the Supreme Court, to the credit of the parties interested in such lands (describing them so far as the company can do), subject to the control and disposition of the said Court.

Compensation money, how dealt with when the party entitled thereto cannot or will not receive same or give transfer of the land.

49 (B). In all cases of money deposited with the Master of the Supreme Court, under the provisions of this or the special Law, or any Law incorporated therewith (c), except where such monies shall have been so deposited by reason of the wilful refusal (D) of any party entitled thereto to receive the same, or to transfer or release the lands in respect whereof the same shall be payable, it shall be lawful for the Court to order (E) the costs of the following matters, including therein all reasonable charges and expenses incident thereto, to be paid by the company (F), that is to say: the costs of the purchase or taking of the lands, or which shall have been incurred in consequence thereof (G), other than such costs as are herein otherwise provided for, and the

Costs in cases of money deposited.

(A) Where possession is resumed by the Government, for public purposes, of land in respect of which no compensation is payable, the Government is not entitled to transfer of such land. But where possession is resumed of land in respect of which compensation is payable, Government is entitled to transfer as prescribed by this section (*Colonial Government v. Natal Land and Colonization Co., Ltd.*, 10 N.L.R. 112).

(B) Cf. sec. 80 of 8 & 9 Vic. c. 18.

(C) As to what is a Law incorporated with the special Law, see *In re Ellison's Estate* (25 L.J., Ch. 379; 8 De Gex, M. & G. 62).

(D) As to what is meant by "wilful refusal" see *Ex pte. Bradshaw, Re East and West India Docks, &c.*, 5 Railway C.

432; 16 Sim. 174; *In re Windsor, &c., Railway Co.*, 12 Beav. 522; *Jones v. Lewis*, 1 Mac. & Gor. 163; 2 Hall & Twells, 406.

(E) The order should follow the words of the statute (*Re Edmonds*, 35 L.J., Ch. 538).

(F) As to apportionment amongst several companies, see *Re Manchester and Leeds Railway Co.*, 2 Ch. D. 360.

(G) As by apportionment of rents under sec. 60 (see *Ex pte. Flower*, L.R. 1 Ch. 599); by procuring a power of attorney from parties out of the Colony (Cf. *Ex pte. Incumbent of Guilden Sutton*, 8 De G., M & G. 380); and for other instances see *Re Walker*, 15 Jur. 161; *Re Taylor*, 1 M. & G. 210; and *Ex pte. Morris*, L.R. 12 Eq. 418.

Law 10, 1872. costs of the investment of such monies (A), and also the costs of obtaining the proper orders for any of the purposes aforesaid (B), and of the orders for the payment of the interest of the securities or rent of the property upon which such monies shall be invested, and for the payment out of Court of the principal of such monies, or of the securities whereon the same shall be invested, and of all proceedings relating thereto, except such (C) as are occasioned by litigation between adverse claimants (D): Provided always, that the costs of one application only for investment in land shall be allowed, unless it shall appear to the Court that it is for the benefit of the parties interested in the said monies that the same shall be invested in the purchase of lands in different sums; in which case it shall be lawful for the Court, if it think fit, to order the costs of any such investments to be paid by the company.

Payment of price to be made previous to entry upon lands, except to survey, &c.

50 (E). The company shall not, except by consent of the owners and occupiers, enter upon any lands which shall be required to be purchased or permanently used for the purposes and under the powers of this or the special Law, until they shall either have paid to every party having any interest in such land, or deposited with the Master of the Supreme Court, the purchase money or compensation agreed or awarded to be paid to such parties respectively, for their respective interest therein: Provided always, that for the purpose merely of surveying and taking levels of such lands, and of probing and boring to ascertain the nature of the soil, and of setting out the line of the works, it shall be lawful for the company, after giving not less than three or not more than fourteen day's notice to the owner or occupiers thereof, to enter upon such lands without previous consent, making compensation for any damage thereby occasioned to the owners or occupiers thereof.

Company to be allowed to enter on lands before purchase on making deposit by way of security and giving bond.

51 (F). Provided always, that if the company shall be desirous of entering upon and using (G) any such lands before an agreement shall have been come to, or an award made, or judgment or verdict given for the purchase money or compensation to be paid by them in respect of such lands, it shall be lawful for the company to deposit with the Master of the Supreme Court either the amount of purchase money or compensation claimed by any party interested in or entitled to sell and convey such lands, and who shall not consent to such entry, or such a sum as shall, by a surveyor appointed in the manner hereinbefore provided in the case of parties who cannot be found, be determined to be the value of such lands, or of the interest therein which such party is entitled or enabled to sell and transfer, and also to give to such party a bond, under the common seal of the company (H), in a penal sum equal to the sum so to be deposited, conditioned for payment to such party, or for deposit with the Master of the Supreme Court for the

(A) As to what has been allowed as part of the cost of investment, see *Ex pte. Trinity House*, 3 Hare, 95; *In re Hoare's Estate and S. Devon Rail. Co.*, 5 Railw. C. 592. The costs of several investments have been allowed (*Re Liverpool Rail. Co.*, 17 Beav. 392; but see *Re Gould*, 24 Beav. 442).

(B) See *In re Shakespeare's Walk School*, 12 Ch. D. 178.

(C) "Such" refers to "costs," not to proceedings (*Re Cant's Estate*, 1 De Gex, F. & J. 153; *Ex pte. Rector of St. James*, 9 Jur., F.S. 1222. And see *Re Tookey*, 16 Jur. 108; *Re Spooner*, 1 K. & J. 220).

(D) See *In re Cant's Estate*, supra; *Haynes v. Barton*, 30 L.J., Ch. 804, where all

the cases are reviewed. Only reasonable costs are allowed (see *Re Leigh*, L.R. Ch. 887; *Ex pte. Osbaldiston*, 8 Hare 31).

(E) Cf. sec. 84 of 8 & 9 Vic. c. 18, on which a plea was founded in *Ramsden v. Manchester, &c. Rail. Co.*, 5 Railw. C. 552; 1 Exch. 723.

(F) Cf. sec. 85 of 8 & 9 Vic. c. 18, which was reviewed in *Loosemore v. Tiverton and Devon Rail. Co.*, 9 App. Cas. 480.

(G) The landowner, until paid, remains landowner (*Wing v. Tottenham Rail Co.*, L.R., 3 Ch. 740).

(H) In the case of private individuals (see definition of "company") presumably the seal is not essential.

benefit of the parties interested in such lands (A), as the case may require, under the provisions herein contained, of all such purchase money or compensation as may be determined to be payable by the company in respect of the land so entered upon, together with interest thereon at the rate of six pounds per centum per annum from the time of entering on such lands (B), until such purchase money or compensation shall be paid to such party, or deposited for the benefit of the parties interested in such lands; and upon such deposit by way of security being made as aforesaid, and such bond being delivered or tendered to such non-consenting party, it shall be lawful for the company to enter upon and use such lands without having first paid or deposited the purchase money or compensation in other cases required to be paid or deposited by them before entering upon any lands to be taken by them under the provisions of this or the special Law.

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Penalty on company entering upon lands, without consent before payment of purchase money.

52 (c). If the company or any of their contractors shall except as aforesaid, wilfully (D) enter upon and take possession of any lands which shall be required to be purchased or permanently used for the purposes of the special Law, without such consent as aforesaid, or without having made such payment for the benefit of the parties interested in the lands, or such deposit by way of security as aforesaid, the company shall forfeit to the party in possession of such lands, the sum of ten pounds over and above the amount of any damage done to such lands by reason of such entry and taking possession, such penalty and damage respectively to be recovered in any competent Court: and if the company or their contractors shall, after conviction in such penalty, continue in unlawful possession of any such lands, the company shall be liable to forfeit the sum of twenty-five pounds for every day they, or their contractors, shall so remain in possession as aforesaid; such penalty to be recoverable by the party in possession of such lands, with costs, by action in any competent Court: Provided always, that nothing herein contained shall be held to subject the company to the payment of any such penalties as aforesaid, if they shall bona fide, and without collusion, have paid the compensation agreed or awarded to be paid in respect of the said lands, to any person whom the company may have reasonably believed to be entitled thereto; or shall have deposited the same with the Master of the Supreme Court for the benefit of the parties interested in the lands, or made such deposits by way of security in respect thereof, although such person may not have been legally entitled thereto.

53 (E). No party shall at any time be required to sell or transfer to the company a part only of any house (F) or other building or manufac-

(A) If the bond is not conditioned in terms of the sec. it does not comply with the Law (see *Hoskins v. Phillips*, 5 Railw. C. 560; 3 Exch. 158; *Barker v. North Staffordshire Rail. Co.*, 5 Railw. C. 401).

(B) When the entry is wrongful, but the continuance of possession becomes rightful, it seems doubtful from what date interest is payable (see *Willey v. S.E. Rail. Co.*, 6 R.C. 100).

(c) Cf. sec. 89 of 8 & 9 Vic. c. 18. As to the power of entry on lands by a company before the compensation is determined, where some of the joint owners consent, see *Langford v. Brighton &c., Rail. Co.*, 4 Railw. C. 69; *Fooks v. Wilts, Somerset, &c., Rail. Co.*, 4 Railw. C. 210; *Hyde v. G.W.R. Co.*, 1 Railw. C. 277; *Tower v. Eastern Counties Rail. Co.*, 3 Railw. C. 374.

(D) See *Hutchinson v. Manchester, Bury, &c., Rail. Co.*, 15 M. & W. 314.

(E) Cf. s. 92 of 8 & 9 Vic. c. 18, which applies to leasehold interests (*Pulling v. L.C. & D. Rail. Co.*, 33 L.J., Ch. 505), and to tunnelling under (*Sparrow v. O.W. & W. Rail. Co.*, 2 De G., M. & G. 94), as well as to throwing a bridge over the "part" (*Pinchin v. London & Blackwall Rail. Co.*, 1 K. & J. 34).

But the "notice to treat" (see sec. 15, ante) is clearly revocable (*King v. Wycombe Rail. Co.*, 29 L.J., Ch. 462; see also *Grierson v. Cheshire Lines Committee*, L.R. 19 Eq. 83; 44 L.J. Ch. 35).

For modification of sec. 92 of 8 & 9 Vic. c. 18, by special Act, see *Hodges on Railways*, 7th ed. at p. 172; *Morrison v. G.E.R. Co.*, 53 L.T. 384.

(F) The word "house" includes not only the curtilage, but also the garden,

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Parties not to be required to sell part of a house, or to have lands isolated in certain manner,

Company to provide access to and from intersected land.

Where value of isolated piece of land is less than cost of providing access, the company may purchase the land.

Mortgagees may consent to transfer of part of land mortgaged.

tory (A), if such party be willing and able to sell and transfer the whole thereof (B); and if any lands, not being situate in a town (C) or built upon, shall be so cut through and divided by the works, as to leave, either on both sides or one side thereof, a less quantity of land than one acre, and if the owner of such small parcel of land require the company to purchase the same along with the other land required, the company shall purchase the same (D).

54. Where lands are intersected by the works of any company under the provisions of this or the special Law, or any Law incorporated therewith, the company shall afford free and sufficient access to and from the lands so intersected, either by making and providing crossings on a level, or by bridges, or by making a roadway under the line, as shall be found most convenient as affording the fullest enjoyment and use of the lands so intersected to the party owning the same.

55. If any such land shall be so cut through and divided as to leave on either side of the works a piece of land of less extent than one acre, or of less value than the expense of making a bridge, culvert, or such other communication between the lands so divided as the company may be compellable to make; and if the owner of such lands have not other lands adjoining such piece of land (E), and require the company to make such communication, then the company may require such owner to sell to them such piece of land, and any dispute as to the value of such piece of land, or as to what would be the expense of making such communication, shall be ascertained as herein provided for cases of disputed compensation; and on the occasion of ascertaining the value of the land required to be taken for the purposes of the works, the Court, or the arbitrators, as the case may be, shall, if required by either party, ascertain by their judgment, or verdict, or award, the value of any such severed piece of land, and also what would be the expense of making such communication.

56. In every case in which any land is subject to a mortgage and the company requires only a portion of said land, the mortgagee of such land may consent that the portion of land so required by the company be transferred to the company, released from such mortgage, and the consent to the transfer and release of such portion of any lands so mortgaged shall in no way affect the rights of the mortgagee

and all that is necessary to the enjoyment of the house, whether attached to the main building or not, and though purchased subsequently to the erection of the main building (*Grosvenor v. The Hampstead Junction Rail. Co.*, 1 De Gex and J. 446; *King v. Wycombe Rail. Co.*, 29 L.J., Ch. 462; *The Governors of St. Thomas's Hospital v. The Charing Cross Rail. Co.*, 30 L.J., Ch. 395; 1 J. & H. 400).

Gardens (*Cole v. West Lond., &c., Co.*, 28 L.J., Ch. 767) and market gardens (*Falkner v. Somerset & Dorset Rail. Co.*, L.R. 16 Eq. 458) have been held to be part of a house; but meadow land (*Fergusson v. L.B. & S.C. Rail. Co.*, 33 L.J., Ch. 29; *Steele v. Midland Rail. Co.*, L.R., 1 Ch. 275), and pasture (*Pulling v. L.C. & D. Rail. Co.*, 33 L.J., Ch. 505) separated from the house by a road, have been held not to be.

(A) Cottages separated from a manufactory by a road, but used as warehouses, have been held part of it (*Spackman v. G.W.R. Co.*, 1 Jur., N.S.

790); and so has land used for the deposit of ashes (*Sparrow v. O.W. & W. Rail. Co.*, 2 De G., M. & G. 94. See also *Richards v. Swansea, &c., Co.*, 9 Ch. D. 425—C.A.; *Barnes v. Southsea Rail. Co.*, 27 Ch. D. 536.

(B) Although this sec. protects the owner from being obliged to sell a part of his land, it appears that it does not compel a company, wanting part only, to take the whole (see *Reg. v. L. & S.W.R. Co.*, 5 Railw. C. 669).

(C) As to meaning of "town" see *L. & S.W.R. Co. v. Blackmore*, L.R. 4 H.L. 610; 39 L.J., Ch. 713; *Carrington v. Wycombe Rail. Co.*, L.R. 3 Ch. 377. It does not appear to be sufficient (in England) that it is merely within a borough boundary.

(D) Cf. sec. 93 of 8 & 9 Vic. c. 18, which provides an alternative course where the owner has "other land adjoining to that so left into which the same can be thrown."

(E) See last preceding note.

to the remainder of the land; and the mortgage bond shall remain and be in full force and effect for the sum due thereon, and interest as to the remainder of the lands as if no consent to transfer had been given.

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57. In any case in which any land is subject to a mortgage, and the company requires only a portion of said land, and the mortgagee of such land does not consent to the transfer thereof, released from such mortgage, and although the owner of such land may consent to transfer the same to the company without any compensation, nevertheless the mortgagee may insist and demand that the value of, and compensation to be given for, that portion of the land so required by the company, and the value thereof, and the compensation for the same may be settled by the mortgagee and the company; and if the parties aforesaid disagree respecting the amount of such value or compensation, the same shall be determined as in all other cases of disputed compensation, and the amount of such value or compensation being so agreed upon or determined, shall be paid by the company to the mortgagee in satisfaction of his mortgage debt, in so far as the same may extend; and a memorandum of what shall have been so paid shall be written or endorsed on the mortgage bond, and shall be signed by the mortgagee, and a copy of such memorandum, if required, shall be furnished by the company to the owner of the land.

Where mortgagee will not consent, compensation how settled.

58. In any case in which all the land comprised in and affected by a mortgage bond is required to be taken by the company, then the amount of compensation required to be paid by the company for the taking of such lands shall be applied, as far as the same is required, towards the payment of the mortgage debt and all interest due thereon, and the balance of such compensation money paid over to the owner of the land; and in any case where the amount of compensation offered by the company be paid for such land, is not equal to the amount due on such mortgage bond, then the mortgagee shall, for the purpose of determining the same, as in all other cases of disputed compensation, be considered as the owner, and all the powers by this Law given to owners in cases of disputed compensation, are hereby conferred on the mortgagee, who is hereby empowered in such cases to transfer the land in the same manner as if he were the owner thereof: Provided that where the compensation, when so agreed upon or determined, exceeds the amount due on the mortgage bond, then the mortgagee must pay over the surplus to the owner: Provided always, that it may be lawful for the owner, at any time before the compensation is agreed upon or determined, to redeem the mortgage bond, and then the same proceedings shall be had as in all other cases of disputed compensation.

Rights of mortgagees where all the land mortgaged is required by the company.

59. In any case in which any mortgagee shall be a minor or incapacitated from acting by lunacy, absence from the Colony, or from any other cause, then in every such case the same proceedings shall be had for the purpose of determining the purchase money or compensation of any land, or portions of land, mortgaged to minors or incapacitated persons, as are by this Law required to be had when the owners may be absent or incapacitated; and the amount, when so ascertained, or so much thereof as may be required for the satisfaction of the mortgage bond, shall be deposited with the Master of the Supreme Court, and thereupon the Supreme Court, or any Judge thereof, may order the Registrar of Deeds to transfer the same freed and discharged from such mortgage.

Mortgagees under incapacity or disability.

60. If any lands shall be comprised in a lease for a term of years unexpired, part only of which lands shall be required for the purposes of the special Law the rent payable in respect of the lands comprised in such lease shall be apportioned between the lands so required and the residue of such lands, and such apportionment may be settled by

Where part only of lands under lease taken, the rent to be apportioned.

Law 16, 1872. agreement between the lessor and lessee of such lands on the one part, and the company on the other part; and if such apportionment be not so settled by agreement between the parties, such apportionment shall be settled by the Resident Magistrate of the county in which such lands are situate, and after such apportionment, the lessee of such lands shall, as to all future accruing rent, be liable only to so much of the rent as shall be so apportioned in respect of the lands not required for the purposes of this Law; and as to the lands not so required, and as against the lessee, the lessor shall have all the same rights and remedies for the recovery of such portion of rent as, previously to such apportionment, he had for the recovery of the whole rent reserved by such lease (A); and all the covenants, conditions, and agreements of such lease, except as to the amount of rent to be paid, shall remain in force with regard to that part of the land which shall not be required for the purposes of the company, in the same manner as they would have done in case such part only of the land had been included in the lease.

Tenants to be compensated.

61. Every such lessee as last aforesaid shall be entitled to receive from the company, compensation for the damage done to him in his tenancy, by reason of the severance of the lands required from those not required, or otherwise by reason of the execution of the works (B).

Compensation to tenants for year, or from year to year.

62. If any such lands shall be in the possession of any person having no greater interest therein than as tenant for a year, or from year to year (C), and if such person be required to give up possession of any land so occupied by him before the expiration of his term or interest therein, he shall be entitled to compensation for the value of his unexpired term or interest in such lands, and for any just allowance which ought to be made to him by an incoming tenant, and for any loss or injury he may sustain, or if a part only of such lands be required, compensation for the damage done to him in his tenancy, by severing the lands held by him, or otherwise injuriously affecting the same, and the amount of such compensation shall be determined by the Resident Magistrate having jurisdiction (D), in case the parties differ about the same; and upon payment or tender of the amount of such compensation, all such persons shall respectively deliver up to the company, or to the persons appointed by them to take possession thereof, any such lands in their possession required for the purposes of the special Law.

(A) Cf. sec. 119 of 8 & 9 Vic. c. 18. A lessee cannot recover against a lessor for breach of a covenant not to build upon land which promoters take and build upon (*Bailey v. De Crespigny*, L.R. 4 Q.B. 180; in this case the land built upon was not part of, but only fronted the land demised). A lessor may recover substantial damages for breach of covenant to repair committed after notice to treat, and before assignment to promoters (*Mills v. E. London Guardians*, L.R. 8 C.P. 79; 42 L.J., C.P. 46).

(B) Cf. sec. 120 of 8 & 9 Vic. c. 18. An interest created by the owner after notice to treat served is no subject of compensation (*Re Marylebone Improvement Act*, L.R. 12 Eq. 389; 40 L.J. Ch. 697). As to quantum of compensation where lease determined by exercise of lessee's option, and new premises removed to, see *Reg. v. Poulter*, 20 Q.B.D. 132; 57 L.J., Q.B. 138; 36 W.R. 117—C.A.

(C) The interest of a tenant in the last year of a term is within these words

(*Reg. v. G.N.R. Co.*, 2 Q.B.D. 151; 46 L.J., Q.B. 4), but the interest of a tenant in possession under an agreement for a lease for years is not (*Sweetman v. Met. Rail. Co.*, 1 U. & M. 543; *In re King*, L.R., 16 Eq. 521). Cf. sec. 121 of 8 & 9 Vic. c. 18.

(D) It seems to follow from the English decisions that if the land be required the Magistrate alone can determine the dispute as to compensation (see *Reg. v. Manchester, &c., Rail. Co.*, 4 E. & B. 88), but if the land be injuriously affected only, proceedings could be taken under sec. 46 by arbitration, or action in a competent Court (see *Reg. v. Sheriff of Middlesex*, 31 L.J., Q.B. 261). The effect of the latter case is now sometimes avoided by the *Special Act*, as to which see *Hodges on Railways*, p. 247.

A tenant from year to year, who has received due notice to quit, cannot claim any part of the compensation paid to his landlord (*Ex pte. Nadin*, 17 L.J., Ch. 421).

63. If any party having a greater interest than as tenant at will, claim compensation in respect of any unexpired term or interest under any lease or grant of any such lands, the company may require such party to produce the lease or grant in respect of which such claim shall be made, or the best evidence thereof in his power; and if, after demand made in writing by the company, such lease or grant, or such best evidence thereof, be not produced within twenty-one days, the party so claiming compensation shall be considered as a tenant holding only from year to year, and be entitled to compensation accordingly.

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Parties having greater interest than as tenant at will to produce lease.

64. The powers of the company for the compulsory purchase (A) or taking (B) of land for the purposes of the special Law shall not be exercised after the expiration of (C) three years from the passing of the special Law (D). (3) (4)

Limit of time for compulsory purchase of land.

65. In exercising the power given by this Law, the company shall make to the owners and occupiers of, and all other parties interested in any lands taken or used for the purposes of the company, or injuriously affected by the construction of any works for the purposes of the company, full compensation for all damages sustained by such owners, occupiers, and other parties, by reason of the exercise, as regards such lands, of the powers by this or the special Law vested in the company.

Compensation to be made to all parties owners or occupiers of lands taken, used, or injuriously affected.

66. This Law shall commence and take effect from and after the date of the promulgation thereof in the "GOVERNMENT GAZETTE" (E).

Commencement

Act. No. 23, 1897.

"To amend Law No. 16, 1872, the 'Lands Clauses Consolidation Law, 1872.'"

[29th May, 1897.]

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. Section 64 of Law No. 16, 1872, shall not be deemed to apply, or to have applied, to the powers conferred by any Act passed for the construction of a railway or other public undertaking by the Governor, or by any company or person acting under powers derived from the Governor.

Restricted application of sec. 64, Law 16, 1872.

(A) Cf. sec. 123 of 8 & 9 Vic. c. 18. A notice by a company to a landowner, requiring to take his land for the purpose of the undertaking, is an exercise of the power for the compulsory purchase of land within the English sec.; and if within the prescribed period such notice be given, the steps necessary to complete the purchase may be taken after that period (*Marquis of Salisbury v. G.N.R. Co.*, 7 Railw. C. 175; 17 Q.B. 840; but see *Richmond v. North London Rail. Co.*, L.R., 3 Ch. 679).

for carrying into effect purchases already made (*Sparrow v. Oxford, &c., Rail. Co.*, 9 Hare, 436).

(C) Cf. sec. 123 of 8 & 9 Vic. c. 18, which limits the time in the first instance to the period prescribed by the Special Act, and fixes three years where no period is prescribed. See also *Reg. v. Birmingham, &c., Rail. Co.*, 15 Q.B. 634; 19 L.J., Q.B. 453; 20 L.J., Q.B. 304; *Reg. v. Birmingham & Gloucester Rail. Co.*, 2 Q.B. 47.

(D) See Act 23, 1897, post.

(B) This does not affect the powers

(E) Dec. 10, 1872.

LANDS IMPROVEMENT, &c.

[See "FENCES."]

Law No. 38, 1874.

"To repeal and re-enact with amendments Law No. 20, 1861, entitled Law 'To prevent the spread of the growth of the Xanthium Spinosum Burr Weed.'"

[25th November, 1874.]

WHEREAS the growth of the noxious plant known as the Xanthium Spinosum Burr Weed has increased to an alarming extent in various parts of the Colony, and is prejudicial to the farming interests of the Colony; and whereas, the Law hitherto in force has failed to check the spread thereof, and it has become necessary to make other and more stringent regulations to effect its extermination:

BE IT ENACTED by the Lieutenant Governor of the Colony of Natal, by and with the advice and consent of the Legislative Council thereof, as follows:—

Repeal.

1. Law No. 20, 1861, entitled: "Law to prevent the spread of the growth of the Xanthium Spinosum Burr Weed" shall be and the same is hereby repealed.

Occupiers of private land liable to a penalty for leaving Burr Weed upon their lands.

2. From and after the date on which this Law shall come into operation, all occupiers of private land being persons of European descent, or in default of occupation by Europeans, all Natives or other coloured persons, whether they be tenants or squatters, residing upon any such land upon which the Xanthium Spinosum Burr Weed shall be found growing and bearing seed shall, on conviction before any Resident Magistrate having jurisdiction, be liable to a penalty not less than Twenty Shillings and not exceeding Five Pounds Sterling: Provided that whenever land is occupied both by Europeans and Natives or other coloured persons, the penalty herein alluded to may be inflicted upon both or either of them, in respect of the portions of land occupied by them respectively or conjointly: And provided also that such prosecution may be renewed and the penalties again imposed, at intervals of not less than six months.

Penalty may be inflicted upon Europeans and Natives.

Prosecution may be renewed.

Magistrate in certain cases may employ labourers to destroy the weed.

3. If the said weed be found growing on any private land which is not occupied, or which may be occupied by servants only, or if occupied, as provided in the foregoing Clause 2, the weed shall be still found growing after the owner or occupier shall have been convicted and fined a second time, or after having a second time tendered and paid the minimum fine required by this Law, it shall be lawful for the Resident Magistrate of the Division in which such land is situated, to employ such number of persons as he may deem necessary for the purpose of destroying it, and the expenses incurred therein shall, in the first instance, be defrayed from the Public Treasury, and are hereby made chargeable upon such land, and the same shall be paid, together with interest at the rate of 6 per centum per annum before any transfer or mortgage of such land be passed before the Registrar of Deeds; and the Resident Magistrate is hereby required and directed forthwith to furnish the Registrar of Deeds with a statement of all charges incurred under this Law upon each property respectively, in order that the same may be recovered by him at the time of transfer or mortgage.

Expense thus incurred chargeable upon the land with 6 per cent. interest.

Magistrate to furnish Registrar of Deeds with statement of charges.

4. If the said weed be found growing and bearing seed within the limits of any Native Location, or upon Crown lands occupied by natives, the inhabitants of the nearest kraal, or any of them, shall be liable to the penalties provided in Clause 2 of this Law.

Law 38, 1874.

Nearest kraal liable to penalty in Locations and on Crown lands.

5. Whenever the said weed shall be found growing on municipal lands, the Mayor and Council of the Borough within the limits of which it shall be found, will be liable to double the penalty by the second section provided; and the same may be eradicated and destroyed by the Clerk of the Peace within such Borough, who is hereby authorised to engage labourers for that purpose, and to defray the expense from the Public Treasury, and to recover double the amount of such expense incurred from the said Mayor and Council, and pay the same when recovered into the Public Treasury.

Double penalty when found growing on Municipal lands.

Clerk of the Peace to eradicate the weed, and recover double expenses from Mayor and Council.

6. Should the said weed be found growing upon any unoccupied Crown lands, or upon any public outspan place, or in any public road, or any Town lands or commonage, not within any municipality, it shall be lawful for the Resident Magistrate of the County or Division, and he is hereby required, to employ convict labour, or to engage free labourers, and cause such weed to be eradicated and destroyed, and all expenses necessarily incurred in the destruction of the said weed shall be defrayed from the Public Treasury.

Magistrate to cause the weed to be eradicated on Crown lands, &c.

7. On the passing of this Law, and in the month of August, in every year, the Colonial Secretary shall cause a notice to be published in the "GOVERNMENT GAZETTE," instructing field-cornets and constables to warn all persons against any infringement of the provisions of this Law, and the Resident Magistrate of every County or Division shall cause a similar notice to be posted at the door of his office.

Colonial Secretary to publish a notice in August instructing field-cornets to warn all persons.

8. Every field-cornet, policeman, constable, or native constable is hereby required to give information to the Resident Magistrate of his Division or County of any occupier, or in default of occupation, of any owner upon whose land the said *Xanthium Spinosum* shall be found growing.

Field-cornets and others to inform Magistrate where weed is growing.

9. In addition to any penalties inflicted under this Law, it shall be lawful for the Resident Magistrate, or any person or persons appointed or engaged by him, to enter upon any private lands within his County or Division upon which the said weed may be found growing and bearing seed, and to engage labourers at the charge of the occupier or owner for the purpose of eradicating and destroying the said weed growing thereon, and all expenses necessarily incurred therein shall be defrayed from the Public Treasury in the first instance, and be recoverable from the owner or occupier as aforesaid in the Court of the Resident Magistrate, at the suit of the Clerk of the Peace, or other officer acting as such.

Magistrate may engage labourers to destroy the weed on private lands.

Expense so incurred recoverable from owner or occupier.

10. Every road inspector or overseer of road parties employed by the Government is hereby required and directed to cause the working parties under his direction to eradicate and destroy all plants of the said weed growing upon or within one hundred yards of any road upon which the said party is at work, or along which it may be travelling.

Road Inspectors, &c., to destroy the weed within 100 yards of road.

11. The Lieutenant Governor may, from time to time, when it shall appear to him to be necessary to enforce the execution of this Law, appoint one or more persons in each County as Inspectors, temporarily, during the summer season each year, who shall be paid at the rate of ten shillings per day, exclusive of travelling expenses, whose duty it shall be to inspect all such localities where they may have been informed, or may have reason to suspect, that the *Xanthium Spinosum* is growing; and for that purpose the said Inspectors shall have free access to all such lands or premises during the daytime; and, finding the said weed there growing and in seed, the said Inspectors shall forthwith make a report thereof to the Clerk of the Peace, unless the minimum fine

Governor may appoint inspectors in each County during summer season.

Inspectors to have access to all lands.

Law 38, 1874.

May receive
fines.
To be accounted
for to the
Magistrate.

required by this Law shall be tendered, in which case the said Inspectors shall receive the fine, and pass a receipt for the same; and at the end of each month the said Inspectors shall account for and pay over to the Resident Magistrate of such County all such fines, to be by him accounted for to the Treasurer-General, specifying in each case the name of the party from whom each fine was received, the date when received, and the amount, and also describing the land or locality where the weed was found growing.

Inspectors to
make monthly
reports.

12. The said Inspectors shall also, on the first day of every month during the time that they shall be employed, send in a report to the Resident Magistrate of the County, setting forth the number of days they have travelled, the places or localities inspected, where and to what extent the weed was found growing, by whom the land is occupied, and the probable amount that would have to be expended to eradicate and destroy the said weed in each case.

Unpaid pen-
alties may be
levied by war-
rant of distress.

13. All penalties imposed under this Law may, unless paid within ten days, be levied by warrant of distress and sale of the goods and chattels of the offender.

Appropriation
of fines.

14. Every fine recovered under this Law shall be paid into the Colonial Treasury: Provided that the Court may in any case award a sum not exceeding one-half thereof to be paid to any person who shall have given such information as may have led to the conviction of any offender.

Interpretation
clause.

15. [Repealed by Act No. 49, 1898.]

16. In the construction of this Law the words "occupier" and "owner" shall, unless otherwise specially defined, be deemed to include Kafirs, Coolies, and any other persons "bona fide" resident on such lands, not being servants in the employ of such owner or occupier.

Commencement

17. This Law shall commence and take effect from and after the expiration of two months from the publication thereof in the "GOVERNMENT GAZETTE," (A).

Law No. 20, 1876.

"To provide for the more general occupation and improvement of Lands alienated from the waste Lands of the Crown within the Colony."

[11th November, 1876.]

WHEREAS the Lieutenant Governor of Natal for the time being, acting for and on behalf of Her Majesty, and with the object of promoting and ensuring the occupation and improvement of the waste Lands of the Crown, has, from time to time, alienated and granted to grantees, and to trustees for educational, ecclesiastical, and other purposes, large tracts of such waste lands with that object and for that purpose:

AND WHEREAS many of such deeds of grant contained a condition that the waste lands thereby granted should be brought into such a state of cultivation as they were capable of:

AND WHEREAS many of such deeds of grant contained a condition that the waste lands thereby granted should be subject to all such duties and regulations as then were, or thereafter should be, established respecting lands granted under similar tenure:

AND WHEREAS much injury has resulted to the Colony by reason of the non-occupation or non-improvement of the larger portion of

(A) Published in *Government Gazette* of 1st December, 1874.

said lands, and by the non-fulfilment of the obligations of trustees in charge of trusts for special purposes; and as it is desirable to make provision for the occupation and improvement of all lands not cultivated and occupied, and to establish by Law such duties and regulations as it is just and equitable to impose for giving effect to the purposes for which the waste Crown Lands were alienated: Law 20, 1876.

AND WHEREAS it is desirable that a Commission should be appointed to enquire into the existing conditions and obligations imposed on or attaching to all alienated lands, and to obtain information and make recommendations as to the duties and regulations necessary and equitable to be established and imposed on such alienated lands, excepting lands in this Law exempted.

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:

1. All grants of waste lands of this Colony are hereby declared to be subject to occupation and improvement, and, in the case of Lands vested in Trustees, to utilization for the purposes for which such Trusts were created, and all such grants as aforesaid are furthermore hereby declared to be subject to such duties and regulations as may be hereafter established and imposed by Law for the fulfilment of the conditions of occupancy, improvement, and utilization: Provided, however, that nothing in this Law contained shall affect the tenure of lands heretofore granted to the Corporations of Pietermaritzburg and Durban respectively, or the rights of any persons who have acquired a title to land within the boundaries of the said boroughs. Nor shall the provisions of this Law be held to apply to lands vested in any body corporate, or individual or individuals, in public trust for Natives, nor to lands occupied by Natives under the sanction and permission of the Lieutenant Governor. And all the waste or unalienated lands of the Colony which may be hereafter alienated are hereby declared to be subject to such conditions of occupation, improvement, and utilization, and subject to such duties and regulations, as may be from time to time by Law established.

Grants of waste lands declared subject to occupation and improvement; lands vested in trustees, to utilization for purposes of trusts; all such grants to be subject to duties and regulations to be imposed by law.

Exemptions, Corporation Lands of Pietermaritzburg and Durban,

and lands held in trust for, or occupied by natives under sanction of Governor.

Conditions of future grants.

2. All lands which shall be reported by the Commissioners to be fully and beneficially occupied and used by the owners thereof, or their representatives, being Europeans, for pastoral purposes, shall be considered to have fulfilled the conditions of occupation and improvement, so long as such lands shall continue so occupied and used. Provided always, that nothing in this section contained shall be construed to release or exempt such lands from any specially expressed conditions attached to the grants under which they are held, unless they are otherwise already legally released and exempted therefrom.

All lands beneficially occupied by Europeans for pastoral purposes have fulfilled conditions of occupation and improvement.

Proviso.

3. The Lieutenant Governor in Council is hereby authorised to appoint Commissioners of Lands, and any members of the same to remove at pleasure, and others to appoint in their stead. It shall be the duty of such Commissioners to enquire into the existing conditions and obligations imposed on or attaching to all such alienated lands as by the foregoing first Section are brought under the provisions of this Law; and to facilitate such enquiry, the Surveyor General, the Registrar of Deeds, and all other persons whatsoever, are hereby required to supply such Commissioners, or any of them, with such information as they may from time to time desire to be furnished with; and also to allow them, or any of them, or any person or persons appointed by them, ready access to all records, deeds, plans, and other documents, relating to the past or present tenure of land in this Colony, and all other information relative thereto; and generally to assist the said Commissioners in the duties hereby imposed upon them.

Appointment of Commissioners to enquire into existing conditions and obligations as to alienated lands mentioned in Sec. 1.

Persons to supply Commissioners with information, and allow access to documents, &c., relating to tenure of land.

Law 20, 1876.

Commissioners to report result of enquiry to Lieutenant Governor. Copy to be laid before Legislative Council.

Commissioners to procure information so as to make recommendations as to duties and regulations to be imposed on alienated lands mentioned.

Return to be prepared of every grant, holding, or allotment, giving full particulars as to occupation, &c.

Commissioners to report fully with reference to the occupancy by natives of lands alienated from the Crown.

Commissioners authorised to enter lands coming within provisions of this Law in order to make enquiries. Penalty for obstructing Commissioners.

Governor authorised to pay Commissioners' travelling expenses at 25s. per diem,

and to defray any reasonable expenses, not exceeding £800 per annum.

4. The said Commissioners so appointed as aforesaid shall, with all convenient speed after the termination of the aforementioned enquiry, report, in such form as to them may seem best, the result of such enquiry, and the information obtained thereby. Such report shall be forwarded to the Lieutenant Governor, and a copy of it laid before the Legislative Council in due course.

5. The said Commissioners are also empowered and directed to procure such information as will enable them to make recommendations as to the duties and regulations necessary and equitable to be established and imposed on such alienated lands as are in the first section of this Law mentioned. It shall also be the duty of such Commissioners to prepare, or cause to be prepared, a return setting forth every grant, holding, or allotment standing registered in the name of any person or persons whatsoever; such return shall show what lands in each case are occupied, and how, whether by persons of European descent or by Natives; what lands are cultivated, how, with what, and to what extent; what cattle or sheep may be depastured upon any lands, and what improvements, if any, have been made thereon, whether by the erection of buildings, yards, or fences, or such dwelling-house as may be requisite for the residence of the occupier or occupiers; or such buildings or other improvements as may be requisite for the more profitable occupation of such lands for agricultural or pastoral purposes.

6. The said Commissioners, with reference to the occupancy by Natives of lands alienated from the Crown, shall specially report the number of Natives dwelling upon each farm; the number and nature of the dwellings occupied by the said Natives; the extent to which the lands of the said farms are cultivated, and the nature of the cultivation, by the said Natives; the number of ploughs, wagons, transport oxen, and other stock belonging to the said Natives; the rents paid by the said Natives to the European owners of the said farms; the tenure and conditions under which the said Natives occupy the said farms; together with any other information which the said Commissioners may deem it desirable to furnish.

7. The said Commissioners of Lands shall be and are hereby authorised, at all reasonable times, to enter upon any lands coming within the provisions of this Law, to view the said lands and any improvements thereon, and to make the necessary enquiries prior to the preparation of the report and returns herein provided for; and if any person shall refuse to allow any Commissioners of Lands to enter upon such lands, or shall attempt to impede or hinder any Commissioner from examining such lands and the improvements thereon, or shall not, when required by any such Commissioner, render him every reasonable assistance, such person shall, on conviction before any Resident Magistrate, forfeit and pay any sum not exceeding Ten Pounds for each offence.

8. The Lieutenant Governor is hereby authorised to pay, or cause to be paid, out of the Public Treasury of this Colony, to each of the Commissioners appointed under and by virtue of this Law, as and for a remuneration for their services and for their travelling expenses, the sum following, that is to say, to each Commissioner for every day upon which he shall be actually and necessarily employed, a sum not exceeding twenty-five shillings per diem, and the Lieutenant Governor is in like manner authorised to pay and defray any reasonable expenses, the more effectually to carry out the provisions of this Law: Provided that the expenses incurred under this clause shall not exceed in any one year the sum of Eight Hundred Pounds.

9. This Law shall commence and take effect from the date of the publication in the "GOVERNMENT GAZETTE" of this Colony of Her Majesty's confirmation thereof or assent thereto. Law 20, 1876.
Commencement

Law No. 26, 1887.

"To enable Individuals and Companies to lead Water for purposes of Irrigation through Lands not their own."

[2nd March, 1887.]

WHEREAS it is expedient to grant facilities for the Irrigation of Lands; and, with this object, to enable Individuals or Companies to lead water for such purposes through lands not their own, on payment of compensation for any damage which may thereby be done:

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

1. This Law may be cited as the "Irrigation Law of 1886."

2. The Land Clauses Consolidation Law of 1872 (Law 16, of 1872), and all the clauses and provisions thereof (save in so far as they shall be expressly varied or excepted by this Law) shall be and are hereby incorporated in this Law.

3. The Governor of the Colony in Council is hereby empowered to declare from time to time certain rivers and streams, or any portion or portions of such rivers and streams within or bounding the Colony of Natal, to be streams or portions thereof from which water may be conducted for the purposes of irrigation in accordance with the provisions of this Law, and the area over which water may be conducted from such rivers and streams: Provided always that three months' notice be previously given by the Surveyor-General in the "NATAL GOVERNMENT GAZETTE" setting forth such rivers, streams, or portions thereof as it is intended to declare available for purposes of irrigation; and that it shall be competent to any person or persons whose lands are adjacent to or traversed by such rivers, streams, or part or parts thereof, or who are otherwise interested, to memorialise the Governor, through the office of the Surveyor-General, against such rivers or streams being so declared available for purposes of irrigation.

4. Any such memorial shall be referred to the Surveyor-General for his report; and upon receipt of such report, if it appear that in the opinion of the Surveyor-General (subject always to confirmation by the Governor in Council) no valid objection is shown, it shall be competent for the Governor to declare, by notification in the "NATAL GOVERNMENT GAZETTE," such rivers, streams, or portions thereof to be available for the purposes of irrigation within the meaning and subject to the provisions of this Law.

5. The Governor shall be and is hereby empowered to grant leave to any person, persons, or companies to carry water from any rivers or streams, or portions thereof, so declared available for irrigation, over land not the property of such persons or companies for the purposes of such irrigation, subject always to the following provisions, which shall stand in place of those set forth in Clause 6 of the Land Clauses Consolidation Law of 1872, otherwise herewith incorporated as aforesaid.

6. When and so often as any person, persons, or company, shall desire to lead water from a stream or river so declared available for irrigation purposes over land belonging to another, he or they shall forward a plan of the land to be traversed and the work to be executed,

Short title.

Land Clauses Consolidation Law, 1872, incorporated in this Law.

Governor in Council may declare certain streams to be streams from which water may be conducted, and area over which water may be conducted. Notice to be given in Gazette.

Owners may memorialise against declaration.

Memorial to be reported on by Surveyor-General.

If no valid objection Governor may declare streams available by notice in Gazette.

Governor may grant leave for water to be carried from any declared streams over land not the property of those so carrying it.

Application for permission, with Plan of land to be traversed, and of works, to be

Law 26, 1887.

sent to Surveyor-General, and copies to owners of land three months in advance:

Twenty-eight days' notice to be given.

If no objection lodged, Governor may declare applicant entitled to lead water and enter on the land.

together with an application for leave to carry out the same, to the Surveyor-General, three months before such application shall be heard and considered, and shall at the same time transmit to the owner of the land a copy of such application, and of the plan accompanying it, and shall give to the owner of the land at least 28 days' notice of the day set down for dealing with the application.

7. If no objection be lodged at the Surveyor-General's office by the person or persons through whose land it is proposed to bring such water, on or before the day appointed for dealing with the application, the Governor is hereby empowered to declare such person or persons authorised to bring such water to his or their land, and to enter upon and take land for the purpose of so doing, subject to the provisions of Law 16 of 1872, except so far as they are modified by this Law.

8. In the event of an objection being lodged with the Surveyor-General by the person or persons over whose land the water is to be brought, on the ground that the water might reasonably be conducted by some other way, or for any other reason specially and peculiarly affecting the property which it is designed to traverse, the Governor shall cause reference to be made to a Board to consist of the Surveyor-General, assisted by two competent assessors—the one to be nominated by the person or persons making the application, and the other by the person or persons whose land it is proposed to traverse—to determine whether such objection is a valid and sufficient one: Provided that the finding of such Board shall be subject to appeal to the Supreme Court of the Colony in the same form and manner, and upon the like notice as appeal is instituted and prosecuted from the Magistrates' Courts, the decision of the Supreme Court being final; and, in the event of such objection being sustained, leave shall not be granted to carry the water over the land in question.

Constitution of Board for hearing objections.

Decision of the Board subject to appeal to Supreme Court.

If objection invalid, then as in Sec. 7.

9. In the event, however, of such objection being declared invalid, either by the finding of the Board, if not appealed from, or upon appeal made to the Supreme Court as aforesaid, the Governor in Council may and shall declare the applicant authorised to lead such water to his land, in the same manner as if no objection had been lodged against him doing so, as provided for in Section 7.

Leader of water to have leave, upon notice, to enter on land for repairs to watercourse, and to take materials therefor from the land.

Compensation for damage.

10. In all cases where leave to lead water over land belonging to another has been granted under this Law, such leave shall be taken also to give authority to enter upon the land traversed for the purpose, from time to time, of repairing the watercourses that may be constructed, upon reasonable notice being given to the owner; and also to take from the land such material as may be necessary for the said repairs, subject always to the same provisions for compensation to the owner for any damage he may sustain through the removal of such material as apply to damage resulting from the taking of the land as hereinbefore set forth.

Procedure where water has been led over adjoining lands before passing of the Law.

11. If, before the passing of this Law, water shall have been led over the land of an adjoining farm with the permission of the owner or owners of such farm, the person, persons, or company acting under such permission may forward a plan of the land so traversed by such watercourse, together with an application for leave to continue the same, to the Surveyor-General, and shall follow the procedure set forth in the 6th Section of this Law.

If no objection, or objection overruled, Governor may declare the watercourse.

12. If no objection is lodged by the person or persons over whose land the water is led by permission as aforesaid, or if objection be lodged but not sustained, the Governor is hereby empowered in either such case to declare such watercourse to be a watercourse under the provisions of this Law.

13. If objection be lodged against any watercourse so constructed with permission, as aforesaid, such objection shall be dealt with in the manner indicated in Clauses 7 and 8 of this Law; and in the event of the objection being sustained, no declaration shall be required from or made by the Governor. **Law 26, 1887.**
Objections to be dealt with according to Section 7 and 8.
14. The leading of water for the purposes of irrigation, in accordance with the provisions of this Law, shall be deemed to be an "undertaking" within the meaning of Section 1 of Law 16 of 1872, and any person, persons, or company, who may be authorised to bring water over any lands, in accordance with the provisions of this Law, shall be deemed to be persons authorised to take lands within the meaning of Clause 2 of the said Law 16 of 1872, as fully as if this Law directly authorised such person, persons, or company to lead water over lands not their own for the purposes of irrigation. **Leading of water under this Law to be an "undertaking" within meaning of Sec. 1 of Law 16, 1872, and persons authorised to lead to be within meaning of Clause 2 of same Law.**
15. If the conveyance of water under the authority of this Law shall deprive any person of any water or right of water which he may, at the time of such 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 Land Clauses Consolidation Law, No. 16, of 1872: Provided always, that such section shall be read as applying to a person or persons as well as to a company. **Compensation for deprivation of water or water-right by conveyance under authority of this Law.**
16. Any person fraudulently diverting water from any river, stream, watercourse, or water-channel which has been authorised by this Law, shall, on conviction, be liable to a penalty not exceeding £10, or to imprisonment, with or without hard labour, for any period not exceeding three months. **Penalty for fraudulent diversion of water from authorised stream.**
17. Any person who shall wilfully obstruct or interrupt any person authorised by or on behalf of the Government to inspect or report under the Law upon any lands, premises, or works in the execution of any duty authorised under this Law; and any person who shall wilfully break down any embankment, watercourse, or the banks thereof, or any other work erected or constructed, or in course of erection or construction, or shall knowingly or wilfully hinder the flow or cause the escape of any water in, or retained, or held by, or in any watercourse or other work constructed or in course of construction under this Law, shall be liable, on conviction, to a penalty not exceeding £10, or to imprisonment, with or without hard labour, for a period not exceeding three months. **Penalty for obstruction of person authorised to inspect or report, and for breaking down watercourse or embankment, or hindering flow of water, or causing it to escape.**
18. Any person or company availing himself or themselves of powers to construct a watercourse under this Law, shall, when required by the Resident Magistrate, by order, to do so, make and at all times maintain the following works, that is to say:— **Obligations of persons availing themselves of this Law.**
- (a) Such and so many culverts or other means of communication as may be wanted over the watercourse, for the purpose of making good any interruptions, caused by the watercourse, over the land on which it is constructed. **Culverts and means of crossing.**
- (b) Also sufficient fences for protecting against injury, person, persons, or stock passing by any places dangerous to their safety from depth of watercourse, or other causes resulting therefrom, and which would not be dangerous had the watercourse not been constructed. **Fences for protection of persons or stock where dangerous.**
19. This Law shall commence and take effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (A). **Commencement**

Law No. 26, 1891.

"To promote Irrigation."

[3rd September, 1891.]

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

Interpretation.

1. In the construction of this Law.—

"Owner" means the registered owner of land, or the purchaser under a certificate of sale of Crown Lands purchased under any rules for the time being regulating the sale of Crown Lands, not less than three-fourths of the purchase price whereof shall have been paid, and includes any person, or partnership, or company.

"Person" also includes a partnership or company.

"Works" means the works of irrigation and artificial storage of water as specified in Section Three, in respect of which application is made for an advance under the provisions of this Law.

Restriction of operation of this Law.

2. This Law shall not operate with respect to any land situated within the boundaries of any township or municipality.

Application of landowner for an advance for purpose of irrigation.

3. It shall be lawful for any owner of land within the Colony, who may propose to improve the same by works of irrigation or artificial storage of water, and who may be desirous of obtaining an advance by way of loan from the Government for defraying the expense of such works, to make an application to the Governor in Council for such advance, and such application shall be in writing, and shall contain such particulars of the land so proposed to be improved, the proposed manner of effecting such works, the estimated expense of effecting the same, and the estimated increase of the value of the land to be produced by such works, as may enable the Governor in Council to judge of the expediency of investigating or further proceeding upon such application, and every such application shall specify that the applicant is the owner of land to which such application shall relate.

Essentials of application.

Written consent of mortgagees or lessees required.

4. No such application as in the preceding Section is mentioned shall be entertained in respect of any land subject to a registered mortgage, or wholly or in part leased, unless the application be accompanied by a written consent of all mortgagees or lessees to the application, and to the charge to be imposed upon the land under the provisions of Section Ten of this Law.

Inspection of lands by Engineer.

5. If the Governor in Council shall think fit to entertain an application made in conformity with the foregoing sections, he may direct the Colonial Engineer to cause the land and the plans, estimates, and specifications of the proposed works to be inspected by an engineer, or other competent person, who shall report to the Colonial Engineer his opinion thereon, and on the statements contained in the application; and thereafter the Colonial Engineer may make such other enquiries and obtain such other information in relation to the application as he shall think fit.

Colonial Engineer to report on application. Provisional certificate.

6. The Colonial Engineer shall report to the Government upon every such application, and shall annex to his report, the plans, estimates, and specifications of the proposed works.

7. If from such report of the Colonial Engineer it shall appear that he is of opinion that the proposed works will substantially increase the value of the land, and that they are proposed to be effected in a good and durable manner, it shall be lawful for the Governor in Council to direct the Colonial Engineer to issue to the owner of the

land a provisional certificate declaring that the proposed works, according to the plans and specifications of the same, meet with the approval of the Colonial Engineer, and thereupon authority may be given to the Colonial Treasurer to make an advance, or advances, to an amount, or amounts, and upon conditions to be specified in the certificate. Law 26, 1891.

8. The conditions upon which advances may be made shall be as follows, that is to say:— Conditions upon which advances may be made.

- (a) No advance shall exceed two-thirds of the estimated cost, as reported by the Colonial Engineer, of the works for the purposes of which such loan is applied for, nor two-thirds of the value of the land, if improved, or one-half of the value of the land, if unimproved, such value being computed at the rate per acre at which the upset price of Crown Lands in the locality is fixed. In the case of land purchased from Government, of which the freehold title shall not at the time of the construction of the works have been granted, no advance shall exceed one-half of the paid instalments calculated at the upset price, nor be made in any case in which less than three-quarters of the purchase price shall have been paid, nor if any instalments of purchase price shall be in arrear.
- (b) When the total amount of the advance has been determined, it shall be lawful for the Government to cause to be issued one-half of such advance before the work has been commenced.
- (c) It shall be lawful for the Colonial Treasurer from time to time, upon production to him of the provisional certificate before mentioned, having endorsed thereon a certificate by the Colonial Engineer, that the applicant has satisfactorily expended the first half of the advance on the work, to pay such amounts on account of the advance authorised, as represent the same proportion of the whole advance as the cost of the works executed bears to the whole estimated cost: Provided, however, that:
 - (1) Until the completion of the works such payments shall not in the whole exceed three-quarters of the advance authorised.
 - (2) Such payments shall not be made more than once in every calendar month.

Any balance remaining unpaid at the time of the completion of the works shall be payable by the Colonial Treasurer upon the production to him of the provisional certificate aforesaid, having endorsed thereon a certificate by the Colonial Engineer that the works have been completed to his satisfaction.

9. Every advance made under the provisions of this Law shall be repayable in fifteen equal yearly instalments, the first instalment being due and payable at the end of one year after the date of the final payment on account of the advance and shall bear interest at the rate of five per cent. per annum. Such instalments to be so calculated and fixed that the capital sum advanced and the interest thereon shall be paid off in the aforesaid period of fifteen years, as more particularly shown in Schedule A hereunto annexed: Provided, that it shall be lawful for the person liable to pay such advance in instalments as aforesaid, to pay in one sum the value at the time of payment of all the instalments then remaining unpaid as shown in Schedule B hereunto annexed. All such instalments of capital and interest shall Terms of repayment.

Law 26, 1891. be paid to the Colonial Engineer. For the purposes of this section and the following sections the advance shall be deemed to include, in addition to the amount lent, or to be lent to the owner as aforesaid, the whole of the costs incurred by the Colonial Government in the course of any inspections, enquiries, and other proceedings taken under the provisions of Section Five of this Law, and the cost of such engineering supervision or inspection as the Colonial Engineer may consider necessary during the execution of the work. All such costs and expenses shall be deducted from the amounts payable to the owner under the provisions of Section Eight of this Law.

Moneys due to Government to be a first charge.

10. All moneys due to the Government under the provisions of this Law shall be, and are hereby declared to be, a first charge on the estate of the person by whom the same shall be payable, and all such moneys shall be a first charge, and shall take priority of all charges and incumbrances whatsoever and whensoever made upon and over the landed property upon or in connection with which the moneys shall have been advanced, and upon and over all the estate and property, movable and immovable, of the person to whom any advance shall have been made.

Recovery of unpaid instalments.

11. In the event of the non-payment of any annual instalment at the due date thereof, together with the interest then accrued, it shall be competent for the Colonial Engineer, at his discretion, to recover the same in the Court of the Magistrate of the Division in which the land is situated, if the amount be not in excess of the jurisdiction of such Court, or otherwise in the Supreme Court, or the Circuit Court having jurisdiction, or to sue in the Supreme Court or the Circuit Court having jurisdiction, for recovery of the whole amount of the advance then remaining unpaid, together with interest then accrued, and for an order declaring the land executable in satisfaction of his claim, and it shall be lawful for the said Supreme or Circuit Court to declare the land executable, and to adjudge the same to be sold in satisfaction of such claim and costs.

Supervision and inspection of works.

12. The Colonial Engineer shall from time to time cause the works to which a provisional certificate shall relate to be supervised and inspected by an engineer or other competent person to ascertain and ensure the due execution of such works, and such engineer or other person as aforesaid may require the production of such vouchers, bills of account, or other documents as may enable him to ascertain such due execution and the amount of the expenses which shall have been actually incurred in the execution of such work.

Duties and liabilities of borrower until repayment of advances.

13. So long as any such advance or any part thereof shall remain unpaid, the person for the time being bound to pay the same shall be bound to uphold the works on account of which the advance shall have been made, and shall once in every year certify to the Colonial Engineer the state of such works, and in default of so keeping and upholding the said works, he shall be liable to an action at the suit of the said Colonial Engineer for such default, and for any damage thereby occasioned. The Colonial Engineer by himself, or by any person appointed by him, shall have the right at any time before the advance shall have been repaid, to enter upon the land and works, or take such other steps as he may deem necessary to satisfy himself as to the stability and proper execution of the works.

Return of water to stream whence taken.

14. Whenever by any works to be constructed under the provisions of this Law, water is required to be taken out of a river or stream, such works shall be so constructed as to provide, as far as circumstances will permit, for the return of all water not necessarily consumed in irrigation to the river or stream from which it was taken. Nothing in this Section contained shall be deemed to give any person any other

Saving.

or greater rights in respect of the taking of water than he would otherwise enjoy. Law 25, 1891.

15. If the construction of any works, or the taking of water therein shall deprive any person of any water or right of water which he may at the time of the construction of such works, and the taking of water therein, 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 construction of such works, or the taking of water therein, constituted a damage to the land, within the meaning of the 65th Section of the Lands Clauses Consolidation Law, 1872. Damage to land by construction or otherwise, brought within Law 16, 1872, Sec. 65.

SCHEDULE A.

Table of equal Instalments payable at the end of each year for fifteen years, corresponding to amounts payable under Section No. 9 of this Law. Schedules.

Amount payable.							Equivalent instalments payable at the end of each year for 15 years.		
							£	s.	d.
£ 1	...	...	...	...	...	...	0	1	11
2	...	...	...	...	...	...	0	3	10
3	...	...	...	...	...	...	0	5	9
4	...	...	...	...	...	...	0	7	8
5	...	...	...	...	...	...	0	9	8
6	...	...	...	...	...	...	0	11	7
7	...	...	...	...	...	...	0	13	6
8	...	...	...	...	...	...	0	15	5
9	...	...	...	...	...	...	0	17	4
10	...	...	...	...	...	...	0	19	3
20	...	...	...	...	...	...	1	18	6
30	...	...	...	...	...	...	2	17	10
40	...	...	...	...	...	...	3	17	1
50	...	...	...	...	...	...	4	16	4
60	...	...	...	...	...	...	5	15	7
70	...	...	...	...	...	...	6	14	11
80	...	...	...	...	...	...	7	14	2
90	...	...	...	...	...	...	8	13	5
100	...	...	...	...	...	...	9	12	8
200	...	...	...	...	...	...	19	5	4
300	...	...	...	...	...	...	28	18	1
400	...	...	...	...	...	...	38	10	9
500	...	...	...	...	...	...	48	3	5
600	...	...	...	...	...	...	57	16	1
700	...	...	...	...	...	...	67	8	10
800	...	...	...	...	...	...	77	1	6
900	...	...	...	...	...	...	86	14	2
1,000	...	...	...	...	...	...	96	6	10
2,000	...	...	...	...	...	...	192	13	8
3,000	...	...	...	...	...	...	289	0	6
4,000	...	...	...	...	...	...	385	7	5
5,000	...	...	...	...	...	...	481	14	3

Law 26, 1901. NOTE.—Yearly instalments for any sum not mentioned in the above
Schedules. table, such as £2,128, may be obtained thus:—

£						£	s.	d.
2,000	gives	...	...	...	...	192	13	8
100	"	...	...	...	...	9	12	8
20	"	...	...	...	...	1	18	6
8	"	...	...	...	...	0	15	5
Therefore 2,128	"	...	...	...	...	205	0	3

SCHEDULE B.

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

Number of Instalments of £100 each.							Aggregate Value.	£	s.	d.
1	...	...	...	...	...	...	100	0	0	0
2	...	...	...	...	...	...	195	4	9	
3	...	...	...	...	...	...	285	18	9	
4	...	...	...	...	...	...	372	6	6	
5	...	...	...	...	...	...	454	11	11	
6	...	...	...	...	...	...	532	18	11	
7	...	...	...	...	...	...	607	11	5	
8	...	...	...	...	...	...	678	12	9	
9	...	...	...	...	...	...	746	6	5	
10	...	...	...	...	...	...	810	15	8	
11	...	...	...	...	...	...	872	3	6	
12	...	...	...	...	...	...	930	12	10	
13	...	...	...	...	...	...	986	6	6	
14	...	...	...	...	...	...	1,039	7	2	

Act No. 33, 1895. (A)

"To Provide for the Extermination of Locusts."

[24th August, 1895.]

WHEREAS it is expedient to make provision for the extermination of Locusts:

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:—

Short title.

1. This Act may be cited as the "Locust Extermination Act, 1895."

Proclamation of Locust Area.

2. 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.

Inhabitants may be required to assist.

3. The Governor may, from time to time, require the inhabitants of any locust area, whether Europeans, Natives, Indians, or others, being in occupation of land in such locust area, to concur in steps which may be deemed necessary by the Governor for exterminating Locusts.

(A) See Act 30, 1898, post to be construed with this Act.

4. The Governor in Council may, from time to time, make, repeal, alter, and add to rules and regulations, and may do all things necessary for the extermination of Locusts and for carrying out the provisions of this Act.

Act 33, 1895.
Rules.

5. The Governor in 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.

Officers.

6. 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; and every officer or person acting under the authority of the Governor, and any other person acting in aid or under the orders of any such officer or person, may from time to time enter into and upon the land of any person or persons, firm, company, board, society, or corporation, and may cut grass and take brush wood thereon or therefrom, and do all other things necessary for the purpose of carrying out the objects of this Act, and shall not be answerable or chargeable for any act of trespass which they may respectively have committed on such lands for the purpose aforesaid.

Exemption of Government and of Governor and Officers from liability.

Entry upon land: taking of materials.

7. Any officer of Government appointed under this Act, may set fire to and burn grass and brushwood within any locust area, on Crown Lands and Lands of the Natal Native Trust and Lands not occupied by Europeans, and also on private lands, having first obtained the consent thereto of the owner or lessee of such private lands or his agent.

Burning grass and brushwood.

8. If any person is sued or prosecuted for anything done by him in pursuance or execution, or intended execution, of this Act, or of any rules, orders, or regulations made thereunder, he may plead generally that the same was done in pursuance or execution, or intended execution, of this Act, or of rules, orders, or regulations made under authority of this Act, and may give the special matter in evidence.

Defence for acts done in pursuance of this Act and of Rules.

9. Where any matter or thing is by this Act, or by any rule, regulation, order, or notice made and published 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, in the absence of any other special provision of this or any other Act in force, be deemed guilty of an offence against this Act.

Offence of disobedience to this Act and Rules.

10. Every person guilty of an offence against this Act or any regulation passed hereunder shall, for every such offence, 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.

Punishment of offences.

11. All penalties or other moneys payable in respect of any offence against this Act, or any rules or regulations made thereunder, may be recovered before the Court of the Magistrate of the Division in which such offence shall have been committed or in which the offender may be found.

Legal proceedings.

12. All fines under this Act, or any rules or regulations thereunder shall, when recovered, be paid into the Public Treasury.

Disposal of fines.

Act No. 30, 1898.

“To extend the provisions of Act. No. 33, 1895, entitled an ‘Act to provide for the Extermination of Locusts.’”

[15th August, 1898.]

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:—

Joint construction of Acts.

1. This Act and Act No. 33, 1895, shall be read and construed together as one Act.

Meaning of “Farm.”

2. The word “farm” in this Act shall mean and include any rural property other than lands belonging to or used by the Crown.

Owner or occupier of infested farm may be called upon by neighbours to destroy locusts.

3. Where any farm is infested by locusts at that stage of their growth when they are as yet unable to fly, the owner or occupier of any adjoining farm may, by notice in writing, call upon the owner or occupier of the first-mentioned farm to destroy the said locusts, and the latter shall, if called upon to do so, assist, both by himself and by his servants, in effecting their destruction.

Right of entry by neighbours on refusal by owner or occupier to destroy locusts.

4. Where any person requested to destroy the locusts upon his farm shall neglect or refuse to do so, the person who requested him shall be at liberty to enter upon the farm, together with his servants, for the purpose of destroying the locusts, and while so engaged neither he nor his servants shall be deemed to be trespassers.

Expenses to be borne equally by both parties.

5. Any expense incurred in destroying locusts after notice given in the manner hereinbefore provided shall be borne in equal proportions by both parties, whether the locusts shall have been destroyed by both parties jointly, or by one or other of them, and the party by whom the expenses may have been paid shall have a right of action against the other party for his proportionate share of such expenses.

Act to be of force in Division to which extended.

6. This Act shall extend to, and be of force in, any Magisterial Division which may be brought under the operation thereof, as provided in the next section, but nothing in this section shall be deemed to limit the operation of Act No. 33, 1895.

Mode of extending the Act to any Division.

7. If at any time a memorial shall be presented to the Governor, signed by not less than twenty owners or occupiers of rural lands within any Magisterial Division, praying that this Act may be extended to such Division, the Governor in Council shall cause such memorial to be published in two issues of the “NATAL GOVERNMENT GAZETTE” and not less than two issues in each of two successive weeks in some Colonial newspaper circulated in the Division. At any time after the expiration of three weeks from the date of the first publication of the memorial the Governor in Council may, if it appear to him expedient to do so, declare by Proclamation that this Act shall extend to and be of force in such Magisterial Division.

LAW AGENTS.

[See “ATTORNEYS”; “COURTS (MAGISTRATES).”]

LAWS AND ORDINANCES.

[See “STATUTES.”]

LEASES.

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LEASES.

[See "REGISTRATION (DEEDS)."]

LEASES OF GOVERNMENT LANDS.

[See "TOWNSHIPS."]

LEGITIMACY OF CHILDREN.

[See "MARRIAGE."]

LEGITIMATE PORTIONS.

[See "WILLS."]

LEPROSY.

[See "PUBLIC HEALTH."]

LEX HAC EDICTALI.

[See Law No. 7, 1885, tit. "WILLS."]

LIBRARIES (PUBLIC).

[See "LITERARY AND OTHER SOCIETIES."]

LICENSES.

[See "DEALERS (WHOLESALE & RETAIL)"; "INTOXICATING LIQUORS";
"LABOUR TOUTS"; "REVENUE."]

LIMITATION OF ACTION.

[See "PRESCRIPTION."]

LIMITED LIABILITY.

[See "COMPANIES (JOINT STOCK)" and "COMPANIES (WINDING-UP)."]

LIQUORS.

[See "INTOXICATING LIQUORS."]

LITERARY AND OTHER SOCIETIES.

Law No. 35, 1874.

“For the regulation of Literary and other Societies not legally incorporated.”

[24th November, 1874.]

WHEREAS certain Societies have been established in this Colony for literary and other purposes; and whereas such Societies have formed libraries and have acquired property, and it is expedient to afford encouragement to such Societies, and protection to the property thereof, and to enable such Societies to acquire and hold immovable property in this Colony:

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

Societies may be registered in Registrar of Deeds' Office.

1. It shall and may be lawful for any unincorporated Society or Association already formed and established, or which may at any time hereafter be formed and established in this Colony for literary purposes, or having for its object the maintenance of a library or museum, or both, or for any other lawful object approved by the Lieutenant Governor, and to which Society or Association it shall be, in the opinion of the said Governor, expedient to extend the privileges of this Law (certificates whereof shall be produced before registration), to register such Society or Association in the office of the Registrar of Deeds of this Colony, without fee or charge, and to deposit in such last mentioned office a copy of the rules or bye-laws of such Society or Association, under the hand of the Secretary thereof for the time being; certificate of which registration and deposit shall thereupon be issued by the said Registrar of Deeds to the said Secretary.

Registered Societies may hold property, borrow money, &c.

2. Every such Society or Association established or registered under this Law shall be competent to acquire and hold immovable property in manner hereinafter mentioned, and to borrow and take up money, from time to time, upon mortgage or debentures for the purposes of such Society or Association, according to any rules or bye-laws which may be lawfully made in that behalf, in manner hereinafter mentioned.

Appointment of Trustees, and registration of their names.

3. It shall be lawful for every Society or Association registered under this Law, from time to time, at some meeting of its members, and by a resolution of a majority of the members then present, to nominate and appoint one or more person or persons to be a trustee or trustees of the said Society or Association; and the like to do in any case of vacancy in said office; and a copy of the resolution so appointing such person or persons to the office of trustee, and signed by such trustee or trustees, and by the Secretary of the said Society or Association shall be sent to the Registrar of Deeds, to be deposited by him with the rules of said Society or Association in his custody.

Property to be vested in the Trustees.

4. All property whatsoever, movable and immovable, belonging to any Society established or registered under this Law, shall be vested in such trustee or trustees for the time being for the use and benefit of such Society and the members thereof: And it shall be lawful for any such Society, through the Secretary thereof for the time being, or other officer or officers appointed for the purpose, in case of the change of any trustee or trustees of immovable property, to cause such change to be registered in the office of the Registrar of

Deeds of this Colony without payment of transfer duty, and without any formal transfer to the new trustee or trustees, upon payment of a fee of five shillings for every new name desired to be registered.

Law 35, 1874.
Change of Trustees to be registered.

5. Before the Registrar of Deeds shall register any change in the name or names of the holder or holders of said property of said Society, he shall require and receive proof to his satisfaction that the person or persons whose name or names is or are sought to be registered, is or are duly entitled to be registered according to the bye-laws, rules, and constitutions of the Society, or otherwise according to law.

Registrar of Deeds to be satisfied that persons are entitled to be registered.

6. In case any question shall arise between the Registrar of Deeds and any person claiming to be entitled to be registered as a trustee or trustees as aforesaid, it shall be lawful for the Supreme or Circuit Court, or any Judge thereof sitting in Chambers, to hear the said Registrar of Deeds, and the party or parties applying for such registration, or any person or persons representing such respectively, as to the matter in question, and to examine the proofs which shall have been offered in support of the claim to be registered, and to call for such further proof as may be necessary, and in a summary manner to make such order in the premises as shall to justice appertain, which order shall be binding and conclusive: Provided, that a Judge sitting in Chambers may direct any such question as aforesaid coming before him in Chambers to be brought by way of motion before the Supreme or Circuit Court, in order that the same may be heard and determined by such Court, whose decision shall be binding and conclusive.

Disputes between Registrar and persons claiming registration decided by the Court, or Judge in Chambers.

Judge may direct the question to be brought before the Court.

7. The person or persons who may for the time being be registered in the said Deeds' Registry as the trustee or trustees for the said property of any such Society, shall alone be recognised as the owner or owners thereof, unless and until any new registration shall be effected of any such change of trustee or trustees according to law.

Registered Trustees alone recognised as owners.

8. It shall be lawful for every Society or Association registered under this Law, from time to time, at some meeting of its members, and by a resolution of a majority of the members then present, to make rules and bye-laws for the regulation, government, and management of such Society or Association, and for the protection, recovery, and custody of the property thereof, and for the appropriation of the funds thereof, and for the audit of the accounts thereof, and the fines and forfeitures to be imposed on any member thereof, and the settlement of disputes between the Society and any of its members or any persons claiming by or through any member or under the rules, and generally for carrying out the objects and purposes of such Society or Association; and to alter, amend, vary, or annul, as occasion may require, any such rules or bye-laws previously theretofore made and registered or deposited as aforesaid: Provided, that a copy of every bye-law and rule under the hand of the Secretary shall be deposited in the Deeds' Registry Office.

Registered Societies may make rules, &c.

9. The members of every such Society or Association, established or registered under this Law, shall have the power of electing such of its members as they shall deem fit to act as a committee or council of officers, under such terms and conditions as the rules or bye-laws may provide.

Committee or Council appointed by members.

10. Every such Society or Association, established or registered under this Law, may in all actions, suits, and legal proceedings sue and be sued in the name of its Secretary.

Societies to sue or to be sued in Secretary's name.

Law 35, 1874.
Societies may
alter their
names, which
shall be regis-
tered and pub-
licly notified.

11. Nothing in this Law contained shall prevent any such Society, so registered, from altering its name; provided that every such alteration shall be registered in the Registrar of Deeds' Office, and publicly notified in the "GOVERNMENT GAZETTE": and provided further, that no such alteration shall prejudice or affect any right which previously to such alteration has accrued to anyone against such Society, or by such Society against anyone, and that no such alteration shall abate or render defective any legal proceedings pending at the time when such alteration is made.

Commencement

12. This Law shall commence and take effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" after the passing thereof (A).

(A) December 1, 1874.

LOANS.

Law No. 16, 1871.

“For the Consolidation of the Public Loans of Natal.”

[28th November, 1871.]

WHEREAS the Colony of Natal has raised loans upon the authority of Laws No. 8, of 1860, and No. 15, of 1864, amounting together to £263,000 :

AND WHEREAS by Law No. 8, of 1867, known as the “Natal Public Works Loan Law, 1867,” the Government of the said Colony has been authorised to raise a further loan of £100,000 for the construction of public works within the Colony ; and whereas the said last-mentioned loan of £100,000 has not yet been negotiated :

AND WHEREAS it is deemed expedient to make provision to convert and consolidate the public loans of Natal into one loan, to be called “The Natal Consolidated Loan” :

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows :—

1. The short title of this Law shall be “The Consolidated Loan Law, 1871.” Short title.

2. It shall be lawful for the Lieutenant Governor of Natal to appoint the Crown Agents for the Colonies to be agents for the purpose of raising and managing the loan authorized by this Law. Agents.

3. Such agents shall have full power and authority to issue, under the conditions hereinafter stated, in Great Britain or elsewhere, debentures representing a sum not exceeding three hundred and fifty thousand pounds (£350,000). Authority to issue debentures.

4. Each debenture shall be for a sum not less than one hundred pounds (£100), to be paid off at par at the expiration of thirty-seven years from the date of issue. Particulars of debentures.
May 1)

5. Each debenture shall bear interest at the rate of not more than six pounds per centum per annum, payable half yearly, in the manner hereinafter provided, and shall be signed on behalf of the Government of Natal by the Crown Agents for the Colonies, in London, for the time being. Interest.

6. To each debenture shall be attached coupons for the payment of the interest half yearly to be made in respect of each debenture ; they shall be numbered successively, beginning with No. 1. No. 1 coupon shall be made payable at a date to be fixed by the Crown Agents, and the other coupons each at a date six months later than the date of the coupon immediately prior to it in order. Coupons.

7. Each debenture, and all right to and in respect of the principal money secured thereby, and each coupon and all right to the interest payable in respect thereof, shall be transferable by delivery, and the principal money secured by such debenture, and the interest payable in respect to such coupon, shall be payable in London, at the offices of the Crown Agents for the Colonies. Debentures and Coupons transferable by delivery.
Interest payable at offices of Crown Agents.

8. All debentures and coupons issued under this Law, and the principal money and interest respectively secured thereby, shall be charged on and be payable out of the revenue of the Colony of Natal, in like manner as other liabilities incurred on account of the Government of the said Colony. Revenue declared liable.

Law 16, 1871.

Payment to be made on demand when due.

No interest payable if demand not made at period named.

Sinking Fund.

9. Upon the expiration of the period fixed for the payment of the debentures issued under this law, the sum mentioned in the same shall, on demand, be paid to the bearer thereof.

10. No interest shall be payable on debentures issued under this Law, the payment of which shall not be demanded at the expiration of the period named therein.

11. To provide for the redemption of the debentures issued under this Law, there shall be appropriated half-yearly, out of the revenues of the Colony, such sum as shall be equal to one per cent. per annum on the total of the principal sum for which the debentures shall from time to time have been issued; which amount shall be remitted half-yearly to the Crown Agents for the Colonies; and the amount thus remitted, together with the dividends, interest, or annual produce arising therefrom, shall be invested for the formation of a sinking fund for the final extinction of the debt, so that the same may accumulate by way of compound interest.

Investment.

12. All sums paid to the account of the sinking fund, and all interest or produce arising therefrom, shall be invested under trustees in the purchase of Indian or Colonial Government securities; the Crown Agents for the Colonies shall be the trustees of the said sinking fund.

Disposal of debentures.

13. The debentures to be created under this Law shall be disposed of as follows:—Such number shall at once be sold as will suffice to realise a sum of £55,000, to be applied to and for the purposes enumerated in the Schedule annexed to this Law. Such number shall be sold or exchanged as may suffice to redeem all the bonds or debentures issued under Law No. 8, of 1860; and the sinking fund accumulated under that Law, being, by such purchase or exchange, set free, the trustees shall convert into money the securities held by them on account of such fund, the amount to be applied to the purchase of part of the debentures issued under Law No. 15, 1864, and such further portion of the debentures created under this Law shall be disposed of as may suffice to redeem, by purchase or exchange, the remainder of the debentures under the said Law No. 15, 1864.

No other debentures to be disposed of.

14. No other debentures, than those referred to in the preceding clause created under this Law, shall be disposed of except as sanctioned or directed from time to time by the Legislature of Natal. And in like manner the sinking fund accumulated under the said Law No. 15, 1864, being set free, the securities held on account of such fund shall, from time to time, as may hereafter be directed by the Legislature of Natal, be converted into money, and the amount shall be held by the Crown Agents, to be disposed of in such manner as may be directed by the Legislature of Natal.

Sinking Fund under Law 15, 1864, how to be dealt with.

Old debentures received to be cancelled.

15. All debentures purchased for or on behalf of the Government of Natal, or exchanged for those to be issued under this Law, shall, immediately on the receipt thereof, be cancelled by the Crown Agents, and shall be transmitted to the Colonial Treasurer of Natal.

Outstanding debentures not affected.

16. Nothing in this Law contained shall be held to prejudice, alter, or vary any security or securities heretofore charged upon the public revenues of Natal, except those voluntarily exchanged with or purchased from the holders by the Crown Agents for the Colonies on behalf of the Government of Natal.

Sinking funds under Laws 8, 1860, and 15, 1864.

17. The sinking funds created under Law No. 8, 1860, and Law No. 15, 1864, shall, from and after the passing of this Law, be vested in the trustees under this Law.

How released upon cancellation of debentures thereunder.

18. If and whenever any debentures issued under the aforesaid Laws No. 8, of 1860, and No. 15, of 1864, have been converted or exchanged for debentures issued under this Law, or have been purchased

on behalf of the Government of Natal and cancelled as provided in clause 15 of this Law, the trustees shall determine what amount of the sinking fund held by them and created for the payment of such debentures shall be released; and in the determination of such question the trustees shall take into consideration the value of the whole investments held by them on account of such sinking funds, the amount of the debt remaining a charge on such sinking funds, and such other matters as the trustees think fit.

Law 16, 1871.
Trustees to determine

19. The trustees shall make any and every such determination as aforesaid by an award in writing, and they shall transmit such award as soon as conveniently may be to the Colonial Secretary of Natal for the time being.

and award in writing.

20. The Law No. 8, of 1867, known as the "Natal Public Works Loan Law, 1867," shall be and it is hereby repealed.

Law 8, 1867, repealed.

21. This Law shall take effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (A).

Commencement

SCHEDULE.

	£	
For the introduction of Coolies	20,000	Schedule.
For Harbour Works	12,000	
For wharves, cranes, sheds, etc.	5,000	
For the purchase of a Tug	7,000	
Tugela Bridge	6,000	
Expenses incidental on the carrying out the provisions of this Law	5,000	
	£55,000	

Law No. 5, 1875.

"To Raise a Loan for the Construction and Equipment of certain Railways in the Colony of Natal."

[17th December, 1875.]

WHEREAS by "The Natal Government Railways Law, 1875," the Lieutenant Governor is empowered to make, maintain, equip, and work the following railways, namely:

(a) The Main Line.—A railway commencing by a junction with the existing line of railway at Pine Terrace, Durban, and terminating at the city of Pietermaritzburg, at a point near to Government House.

(b) The North Coast Line.—A railway commencing by a junction with the existing line of railway at a point near the Umgeni River, and terminating at the town of Verulam.

(c) The South Coast Line.—A railway commencing by a junction with the intended line of railway (a) from Durban to Pietermaritzburg, at a point about four and a half miles from Durban, and terminating at the village of Isipingo; and provision is made for alterations of the gauge of the existing railway from Durban Harbour to Umgeni, and for the purchase or lease of the railway and undertaking of the Natal Railway Company.

(d) The Point Line.—A railway commencing at or near the Custom House, situate at the Point in the Harbour of Natal, and terminating at or near Pine Terrace, in the Borough of Durban, to be a junction,

(A) December 5, 1871.

Law 5, 1875. if so required, with the main line and north coast line hereinbefore recited.

And it is expedient to make provision for raising, by way of loan, funds for the purposes of the said Law :

BE IT THEREFORE ENACTED by the Lieutenant Governor of the Colony of Natal, with the advice and consent of the Legislative Council thereof, as follows :—

Short title.

1. This Law may be cited for all purposes as "The Natal Government Railways (Funds) Law, 1875" (A).

2. In this Law—

Interpretation.

The expression "the Lieutenant Governor" means and includes the Lieutenant Governor or Officer administering the Government for the time being.

The expression "debenture" means a debenture or other security issued under the authority of this Law.

The expression "the railways" means the railways and works authorised to be constructed and executed, and purchased or leased as aforesaid, or any of them; and

The expression "the Crown Agents" means the Crown Agents for the Colonies in London for the time being.

Governor empowered to borrow, &c.

3. The Lieutenant Governor may from time to time borrow upon debentures, or upon such other form of security as he shall think preferable, such sum or sums of money, not exceeding in the whole the sum of one million and two hundred thousand pounds sterling, as may be required to pay for the construction of the railways and works, for the acquisition or purchase of the railway of the Natal Railway Company, with its appurtenances, and as compensation to be given for the surrender of the lease now held by the said Company from the Colonial Government, from the Town of Durban to the River Umgeni, and for all necessary services and labour in connection with the said railways and works, and for the purchase of such lands, easements, and other property as may have to be purchased for the same, and for the purchase of all requisite materials, plant, engines, rolling stock, and other things in connection with the railways and the equipment and working thereof, and other purposes of the said recited Law, and may employ and empower the Crown Agents to negotiate and to effect the loan hereby authorised.

Interest at rate not exceeding £6 per cent. per ann.

Principal and interest charged on general revenue

4. The principal money secured by every debenture issued under the authority of this Law shall bear interest at a rate not exceeding £6 per cent. per annum, and such principal money and interest shall be and are hereby charged upon and made payable out of the general revenue and assets of the Colony, but subject to all now subsisting debts and sums of money charged on such revenue and assets by virtue of any Law heretofore passed.

Interest payable half-yearly in London.

Principal to be paid within 45 years.

5. The interest on the principal money secured by any debenture shall commence from a day to be named in the debenture, and shall be paid half-yearly at the office of the Crown Agents in London, and the principal sum secured shall be paid at the same place, on a day to be also named in the debenture, and being not more distant than forty-five years from the 15th day of November, 1875.

Issue of debentures.

6. The debentures issued under this Law may be issued at the par value thereof, or at a premium upon or discount from the par value, as the Crown Agents shall deem to be expedient at the time of issue.

Debentures, how to be signed.

7. Every debenture shall be signed by the Colonial Secretary and the Colonial Treasurer of Natal, and be countersigned by the Crown

(A) See Law 16, 1888, post.

Agents or one of them as agents or agent for the negotiation of the loan hereby authorised, and be registered before issue in the Register Books to be kept for that purpose in the office of the Crown Agents. Law 5, 1875.

8. To every debenture shall be attached, at the time of the issue thereof, coupons for the payment of the interest upon the principal sum secured by the debenture, to become due in each half year, either during the whole period during which the debenture shall have to run or a part of such period, as the Lieutenant Governor may determine. Interest coupons.

9. Every debenture and coupon shall be transferable, and the right to receive the principal money and interest respectively secured or represented thereby shall pass by delivery. Debentures transferable by delivery.

10. The Lieutenant Governor shall appropriate and set apart in each half year, out of the general revenue of the Colony, a sum sufficient for the payment of the interest accruing in such half year on the entire amount of the principal monies borrowed under this Law, and for the time being owing, and shall remit the sum so appropriated to the Crown Agents in London in time for the payment of such half-year's interest when the same shall fall due. Appropriation half-yearly of sum for interest

11. The Lieutenant Governor shall half yearly, commencing from the 15th day of November, 1880, also appropriate and set apart out of the general revenue of the Colony, and in like manner remit to the Crown Agents, a sum of money equal to the half of £1 per cent. of the entire amount of the principal monies so borrowed, and for the time being owing, in order to form a sinking fund as hereinafter provided. Appropriation of sum for sinking fund.

12. The Lieutenant Governor shall, with the approval of the Secretary of State for the Colonies for the time being, nominate and appoint two or more persons to be trustees for the purpose of the sinking fund, and may from time to time, with the like approval, nominate and appoint other fit persons to fill casual vacancies in the number of trustees occasioned by death or otherwise, so that the number of trustees may never be less than two. Trustees of sinking fund to be appointed.

13. The Crown Agents shall pay over to the trustees for the time being all sums remitted to them as last aforesaid, and the trustees shall accumulate the same to form a sinking fund for the redemption of the loan hereby authorised by investing the same sums, and all the resulting income thereof in some one or more of the securities of the Imperial Government of Great Britain, or of the Government of any Colony or Dependency of Great Britain. Payment of sums to form sinking fund.

14. The trustees may from time to time apply any part of the sinking fund in the purchase of debentures issued under the authority of this Law. All debentures so purchased, and the interest coupons attached thereto, shall be immediately cancelled or destroyed. Subject to this power of applying the same the sinking fund shall be applied in payment, as and when the same shall become due, of the principal monies for the time being owing on debentures issued under the authority of this Law "pari passu," and without any priority. Application of sinking fund in purchase of debentures.

15. In case the sinking fund shall be insufficient for the payment of all the principal monies borrowed under the authority of this Law at the respective times when the same shall have become due, the Lieutenant Governor shall make good the deficiency out of the general revenue and assets of the Colony. Deficiency to be made good out of general revenue.

16. All expenses of or incidental to the management of the sinking fund or the purchase of debentures, or the repayment of the principal monies to be borrowed under this Law, shall be paid out of the sinking fund. Expenses.

17. Every debenture, the principal money secured by which shall be repaid, shall be delivered up to the Crown Agents, and be by them immediately cancelled or destroyed. Cancellation of debentures.

Law 5, 1875.

No re-issue of debentures.

Application of monies borrowed.

Commencement

18. No money shall be re-borrowed, nor shall any re-issue of debentures be made in respect of any debentures purchased or paid off and cancelled or destroyed as aforesaid.

19. All monies borrowed under the authority of this Law shall be applied to and for the purposes for which the same are hereby authorised to be borrowed, and in payment of all costs and expenses of and incidental to the borrowing of the same, and for no other purpose whatever.

20. This Law shall commence and take effect from and after the Proclamation by the Lieutenant-Governor in the "GOVERNMENT GAZETTE" of Her Majesty's assent to the same (A).

Law No. 35, 1880.

"To raise a Loan for the Construction and Equipment of certain Railway Extensions in the Colony of Natal, and for other purposes."

[30th December, 1880.]

WHEREAS, by the Natal Government Railway Extension Law, 1880, the Governor is empowered to enter into a contract for the making and maintaining of certain lines of Railway being extensions of the present Railway system of Natal: And whereas provision is also made for the equipment and working of the said Railway being an extension and continuation of the present Main Line, and commencing from at or near the City of Pietermaritzburg, and extending to some spot at or near the Town of Ladysmith, in the Klip River Division of the County of Klip River.

AND WHEREAS it is necessary to expend in and about the construction and equipment of the said Railway Extensions a sum not exceeding £1,100,000:

AND WHEREAS it is necessary to expend in and about the completion of the Line of Railway constructed under Law 4, of 1875, an additional sum not exceeding £50,000:

AND WHEREAS it is necessary to make provision for the repayment of a sum of £250,000 expended and advanced by the Imperial Government out of Imperial funds for the purposes of Colonial Defence and other Colonial Services during the late Zulu War:

AND WHEREAS it is necessary to make provision for the construction of certain Public Works of a permanent character in this Colony, to an amount of not exceeding £200,000, such sum to be raised by instalments, as required, extending over a period of five years:

AND WHEREAS it is expedient to make provision for raising, by way of loan, funds for the different purposes set forth and described in this preamble:

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

1. This Law may be cited for all purposes as "The Natal Loan Law, 1881, for the Extension of Railways and for other purposes" (B).

2. In this Law—

The expression "the Governor" means and includes the Governor or Officer administering the Government for the time being.

Short title.

Interpretation clause.

(A) January 11, 1876.

(B) See Law 16, 1888, post.

The expression "debenture" means a debenture or other security issued under the authority of this Law. Law 35, 1880.

The expression "the Railways" means the Railways and works authorised to be constructed and executed, or any of them. And

The expression "the Crown Agents" means the Crown Agents for the Colonies in London for the time being.

3. The Governor may from time to time borrow upon debentures, or upon such other form of security as he may think preferable (A), such sum or sums of money, not exceeding in the whole the sum of £1,600,000, and may employ and empower the Crown Agents to negotiate and to effect the loan hereby authorised, and the amount so raised shall be applied for the following purposes, and for no other purposes:—

Governor authorised to borrow £1,600,000 for certain purposes.

- (a) The sum of £1,100,000, or so much thereof as may be required, to pay for the construction, maintenance, equipment, and working of the Railway and works which may be constructed between the City of Pietermaritzburg and the Town of Ladysmith, and for all necessary services and labour in connection with the said Railways and works, and for the purchase of such lands, easements, and other property as may have to be purchased for the same, and for the purchase of all requisite materials, plant, engines, rolling stock, and other things in connection with the Railways and the equipment and working thereof, and other purposes of the said recited Law.
- (b) A sum not exceeding £50,000 required for completing the Main Line of Railway from Durban to Pietermaritzburg, and including the cost of plant, engines, and rolling stock.
- (c) The sum of £250,000 to be repaid to the Imperial Government, for moneys advanced by that Government from Imperial funds, and expended during the late Zulu War for purposes connected with the Defence of the Colony and other Colonial Services.
- (d) A sum not exceeding £200,000 for new Public Works of a permanent character: provided that no money borrowed for this purpose shall be expended until such expenditure shall have been sanctioned by the Legislature of Natal.

4. The principal money secured by every debenture issued under the authority of this Law shall bear interest at a rate not exceeding Five Pounds per cent. per annum, and such principal money and interest shall be and are hereby charged upon and made payable out of the general revenue and assets of the Colony, but subject to all now subsisting debts and sums of money charged on such revenue and assets by virtue of any Law heretofore passed.

Interest not to exceed 5 per cent.

5. The interest on the principal money secured by any debenture shall commence from a day to be named in the debenture, and shall be paid half-yearly at the office of the Crown Agents in London, and the principal sum secured shall be paid at the same place, on a day to be also named in the debenture, and being not more distant than forty-five years from the First Day of January, 1882.

How and when interest and principal are to be paid.

6. The debentures issued under this Law may be issued at the par value thereof, or at a premium upon or discount from the par

Debentures may be issued at premium, or discount upon par value.

(A) See Law 10, 1882, post, as to the manner in which the Governor may raise monies authorised by this Law.

Law 35, 1880. value, as the Crown Agents shall deem to be expedient at the time of issue.

How debentures must be signed.

7. Every debenture shall be signed by the Colonial Secretary and the Colonial Treasurer of Natal; and be countersigned by the Crown Agents or one of them as agents or agent for the negotiation of the loan hereby authorised, and be registered before issue in the Register Books to be kept for that purpose in the office of the Crown Agents.

Coupons to be attached to debentures for payment of interest.

8. To every debenture shall be attached, at the time of the issue thereof, coupons for the payment of the interest upon the principal sum secured by the debenture, to become due in each half year, either during the whole period during which the debenture shall have to run or a part of such period, as the Governor may determine.

Transfer of debentures and coupons allowed.

9. Every debenture and coupon shall be transferable, and the right to receive the principal money and interest respectively secured or represented thereby shall pass by delivery.

Appropriation out of general revenue for payment of interest and remission of same to Crown Agents.

10. The Governor shall appropriate and set apart in each half year, out of the general revenue of the Colony, a sum sufficient for the payment of the interest accruing in such half year on the entire amount of the principal monies borrowed under this Law, and for the time being owing, and shall remit the sum so appropriated to the Crown Agents in London in time for the payment of such half-year's interest when the same shall fall due.

Appropriation for sinking fund.

11. The Governor shall half yearly, commencing from the 1st day of January, 1886, also appropriate and set apart out of the general revenue of the Colony, and in like manner remit to the Crown Agents, a sum of money equal to the half of £1 per cent. of the entire amount of the principal moneys so borrowed, and for the time being owing, in order to form a sinking fund as hereinafter provided (A).

Appointment of Trustees for sinking fund.

12. The Governor shall, with the approval of the Secretary of State for the Colonies for the time being, nominate and appoint two or more persons to be trustees for the purpose of the sinking fund, and may from time to time, with the like approval, nominate and appoint other fit persons to fill casual vacancies in the number of trustees occasioned by death or otherwise, so that the number of trustees may never be less than two.

Duties of Trustees on receiving sums remitted for sinking fund.

13. The Crown Agents shall pay over to the trustees for the time being all sums remitted to them as last aforesaid, and the trustees shall accumulate the same to form a sinking fund for the redemption of the loan hereby authorised by investing the same sums, and all the resulting income thereof in some one or more of the securities of the Imperial Government of Great Britain, or of the Government of any Colony or Dependency of Great Britain.

Trustees may apply sinking fund in purchase of debentures issued under this Law.

14. The trustees may from time to time apply any part of the sinking fund in the purchase of debentures issued under the authority of this Law. All debentures so purchased, and the interest coupons attached thereto, shall be immediately cancelled or destroyed. Subject to this power of applying the same, 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 the authority of this Law "pari passu," and without any priority.

Deficiency to be made good out of general revenue.

15. In case the sinking fund shall be insufficient for the payment of all the principal moneys borrowed under the authority of this Law at the respective times when the same shall have become due, the Governor shall make good the deficiency out of the general revenue and assets of the Colony.

Expenses.

16. All expenses of or incidental to the management of the sinking fund or the purchase of debentures, or the repayment of the principal

(A) See Law 10, 1882, sec. 17, and Law 9, 1883, sec. 1, post.

moneys to be borrowed under this Law, shall be paid out of the sinking fund. Law 35, 1880.

17. Every debenture, the principal money secured by which shall be repaid, shall be delivered up to the Crown Agents, and be by them immediately cancelled or destroyed. Cancellation of debentures.

18. No money shall be re-borrowed, nor shall any re-issue of debentures be made in respect of any debentures purchased or paid off and cancelled or destroyed as aforesaid. No re-borrowing allowed.

19. All moneys borrowed under the authority of this Law shall be applied to and for the purposes for which the same are hereby authorised to be borrowed, and in payment of all costs and expenses of and incidental to the borrowing of the same, and for no other purpose whatever. Application of moneys borrowed.

20. No Debentures under this Law shall be disposed of for six months from the date of the signification of Her Majesty's assent to this Law, unless a contract or contracts shall have been sooner entered into and confirmed by the Legislature of Natal, as provided under the Natal Government Railway Extension Law, 1880; and provided that a provisional contract shall have been, within that time, submitted to the Legislative Council, on the confirmation of which the Law may be at once put in force. Restriction on disposal of debentures.

21. This Law shall commence and take effect from and after the Proclamation by the Governor in the "GOVERNMENT GAZETTE" of Her Majesty's assent to the same. Commencement

Law No. 10, 1882.

"To declare the terms and conditions applicable to Loans authorised to be raised by the Government of Natal, to provide for the creation of Natal Consolidated Stock, and to amend Law No. 35 of 1880."

[4th September, 1882.]

WHEREAS it is expedient to define in one Law the terms and conditions applicable to all Loans hereafter authorised to be raised by the Legislature of Natal:

AND WHEREAS it is expedient to provide for the creation of Consolidated Stock, and to enable this Colony to take advantage of the provisions of an Act of the Imperial Parliament, entitled, "The Colonial Stock Act, 1877," as well as to repeal certain clauses of Law No. 35 of 1880, which provides for the creation of the Sinking Fund for the repayment of the Loans to be raised under the provisions of the said Law:

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

1. In the case of the Loans authorised by Law No. 35 of 1880, entitled "Law to raise a Loan for the construction and equipment of certain Railway Extensions in the Colony of Natal, and for other purposes," and as often as by any Law passed during the present or any future Session, authority shall be given to raise any sum of money for the purposes mentioned in such Law, the Governor may from time to time, as he may deem expedient, raise such sum either by Debentures or Stock issued in this Colony (hereinafter referred to as "Colonial Stock"), or by Natal Consolidated Stock, or partly by debentures, partly by Colonial Stock, and partly by Consolidated Stock. Loans to be raised by Debentures "Colonial Stock," or Natal Consolidated Stock.

Law 10, 1882.

Debentures not under £100 each to be issued in this Colony or England.

"Colonial Stock."

Purchaser to be credited by Treasurer for amount purchased on production of scrip certificate.

Interest payable half-yearly.

Transfer of Stock.

Stock to be disposed of by public tender.

Consolidated Stock to be issued in England.

Powers of Governor.

Conversion of debentures into Consolidated Stock.

Creation and issue of Consolidated Stock in exchange for other securities.

Creation and sale of Consolidated Stock to raise loans and other purposes.

2. When the borrowing shall be upon debentures, such debentures shall be issued in this Colony or in England, or partly in this Colony and partly in England, for sums of not less than One Hundred Pounds each, but for any multiple of £100, upon the best and most favourable terms that can be obtained.

3. When the borrowing shall be upon Colonial Stock, the following provisions shall be observed :

4. Such Stock shall be issued by crediting the purchaser thereof for such sum thereof as he shall purchase, in books to be kept for that purpose by the Treasurer of the Colony, such credit to be given in the first instance upon production and delivery to the said Treasurer by such purchaser, or by his order, of a scrip certificate of the amount of Stock for which such credit shall be claimed, such certificate being signed by the Colonial Secretary and countersigned by the said Treasurer, and by the Auditor, and which scrip certificate shall be kept in the office of the said Treasurer.

5. Such Stock shall bear interest at a rate to be specified in the said scrip certificate, and such interest shall be payable half-yearly on the days to be fixed at the date of the first issue, and shall be paid on such days, respectively, or so soon thereafter as demand shall be made therefor by the lawful holder for the time being of such Stock, to such lawful holder or his duly authorised attorney, at the office of the Treasurer in Natal.

6. Such Stock shall be transferable by transfer in the books of the said Treasurer, and every person to whom any such credit as aforesaid shall have been given in the said books in the first instance, or to whom any such transfer shall thereafter have been made in the said books, shall be entitled to require and demand of the said Treasurer a receipt or certificate stating the amount of such Stock standing to his credit in such books.

7. Such stock shall be put up for public tender in such amounts as may from time to time seem fit, and shall be disposed of for the best terms which can be thus obtained, and if more tenders than one offering the same terms shall be received for a greater amount of such Stock than the amount disposable, it shall be lawful to accept any one or more of such tenders, or any part of such tenders as circumstances may make expedient.

8. When borrowing shall be upon Consolidated Stock, such Stock shall be issued in England by the Crown Agents for the Colonies under the provisions of the Act of the Imperial Parliament entitled "The Colonial Stock Act, 1877," upon the best and most favourable terms that can be obtained, and on such other conditions, subject to the provisions of this Law, as the Governor may before the issue thereof from time to time direct.

9. The Governor shall also have and may exercise the following powers and authorities, or any of them :—

- (a) He may from time to time declare all or any of the existing debenture loans of this Colony to be convertible into Consolidated Stock of such denominations and on such conditions as he may before the creation thereof from time to time determine.
- (b) He may authorise the creation and issue of such an amount of Consolidated Stock in exchange for the securities held for such loans as may be necessary.
- (c) He may authorise the creation and sale of any such Consolidated Stock for the purpose of raising money, for redeeming any outstanding loans, and in paying any expenses in the creation of Consolidated Stock, and

otherwise carrying out the provisions of this Law, on such conditions as he may determine. Law 10, 1882.

- (d) Any conversion so authorised may be effected either by arrangement with the holders of existing securities, or by purchase thereof out of moneys raised by the sale of new Consolidated Stock, or partly in one way and partly in the other. Arrangements for conversion.
- (e) Any power of this section conferred on the Governor may be exercised from time to time, and he may alter any conditions as often as occasion shall require, provided that no contract or engagement previously entered into shall be prejudicially affected thereby. Governor may exercise powers at any time.

10. Nothing in this Law contained shall authorise an increase of the capital or of the annual charge on any loan, except that when securities exchanged for Consolidated Stock bear a higher rate of interest than the Consolidated Stock, an additional amount of Consolidated Stock may be created and issued to make up the difference in saleable value between the securities and the Consolidated Stock. Exchange of securities for Consolidated Stock.

11. All Loans raised under the authority of any such Law as is in the first section mentioned, and all existing Loans converted into Consolidated Stock, and interest thereon, and all charges and expenses incurred in carrying out the provisions of this Law, or any agreement made in pursuance thereof, shall be chargeable upon and payable out of the revenue of this Colony. Loans to be chargeable upon the revenue of the Colony.

12. The Governor, with the approval of the Secretary of State, may from time to time enter into such agreement with the Crown Agents as to the Governor may seem fit, providing for all or any of the following things:— Creation, inscription, issue, conversion, and transfer of Consolidated Stock.

- (1) For inscribing Consolidated Stock in the books of such Agents.
- (2) For managing the creation, inscription, and issue of Consolidated Stock.
- (3) For effecting the conversion of Loans into Consolidated Stock, and managing transfers thereof.
- (4) For paying interest on Consolidated Stock.
- (5) For issuing Consolidated Stock certificates to bearer, and as often as occasion shall require, re-issuing or re-inscribing Consolidated Stock, and re-issuing Consolidated Stock certificates.
- (6) And for the remuneration of such Agents in respect of any such agreements.

13. Every agreement made in pursuance of this Law shall be as valid and effectual as if the terms thereof had been herein embodied. Agreements

14. The debentures issued under any of the Laws enumerated in the Schedule to this Law annexed, and exchanged or otherwise converted into Consolidated Stock, shall be forthwith cancelled by the Crown Agents, and transmitted to the Colonial Treasurer, and the Trustees appointed by Section 12 of the Consolidated Loan Law, No. 16 of 1871, shall determine what amount of the Sinking Fund held by them and created for the repayment of such debentures shall be released, and in the determination of such question, the Trustees shall take into consideration the value of the whole investments held by them on account of such Sinking Funds, the amount of the debt remaining in charge on such Sinking Funds, and such other matters as the Trustees think fit to take into account. Converted debentures to be cancelled.

15. The Trustees shall make any and every such determination as aforesaid by an award in writing, and they shall transmit such Sinking Fund. Trustees to apportion amount released by conversion

as aforesaid by an award in writing, and they shall transmit such Trustees to make award in writing.

Law 10, 1882. award, as soon as conveniently may be, to the Colonial Secretary of Natal for the time being.

Securities released by conversion, how disposed of. 16. The debentures or other securities thus set free shall be held to a separate account by the Trustees, and shall be disposed of by them in such manner as the Legislature of Natal may by Law determine.

Law 35, 1880. 17. Sections 11 to 18 inclusive of the Law No. 35, 1880, relating to a Sinking Fund to be created for the re-payment of the Loans to be raised under the said Law, shall not apply or extend to any moneys raised under the said Law after the coming into effect of this Law (A).

Short title and Commencement 18. This Law may be cited as "The General Loan Law, 1882," and shall commence and take effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (B).

SCHEDULE.

Law No. 8 of 1860.
 Law No. 15 of 1864.
 Law No. 16 of 1871.
 Law No. 5 of 1875.
 Laws No. 1 and No. 19 of 1876.

Law No. 9, 1883.

"To amend the Law No. 10 of 1882, being 'The General Loan Law, 1882.'"

[12th November, 1883.]

WHEREAS by Law No. 35, 1880, being "The Natal Loan Law, 1881, for the Extension of Railways, and for other purposes," the Governor is empowered from time to time to borrow upon debentures, or upon such other form of security as he may think preferable, a sum or sums of money for the purposes in the third Section of the said Law mentioned, not exceeding in the whole the sum of £1,600,000, and to employ and empower the Crown Agents for the Colonies to negotiate and effect the loan authorised under the said Law 35 of 1880, the amount so raised to be applied to the various purposes set forth and described in Section 3 of the above recited Law :

AND WHEREAS by Section 17 of "The General Loan Law, 1882," it is enacted that Sections 11 to 18 inclusive of the Law No. 35 of 1880, relating to a Sinking Fund to be created for the repayment of the Loan to be raised under the said Law 35 of 1880, shall not extend to any moneys raised under the said Law after the coming into effect of the Law No. 10 of 1882 :

AND WHEREAS in terms of Section 18 of "The General Loan Law, 1882," this said Law came into force and effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" on the 5th day of September, 1882 :

AND WHEREAS in an advertisement issued by the Crown Agents in London, dated the 11th of November, 1882, calling for tenders for the first instalment of £700,000 of the Loan authorised under the said Law No. 35, 1880, it was stated in compliance with the terms of said Law 35, 1880, that for the repayment of this principal sum

(A) See Law 9, 1883, post.

(B) September 5, 1882.

a Sinking Fund of one per cent. would be formed; and whereas a sum of £700,000 has been raised under the terms and conditions as to Sinking Fund set forth in said advertisement: Law 9, 1883.

AND WHEREAS it is expedient to amend the Seventeenth Section of Law 10 of 1882, in so far as it relates to the sum of £700,000 raised as aforesaid, under and by virtue of the said Law No. 35 of 1880:

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

1. The Seventeenth Section of Law No. 10, 1882, is hereby amended in so far as it relates to the said sum of £700,000, raised under Law 35 of 1880, and Sections 11 to 18 inclusive of the said Law 35 of 1880 shall be deemed to apply to the said sum of £700,000 as if Section 17 of Law 10, 1882, had not been passed. The Governor is hereby authorised to appropriate and set apart out of the general Revenue of the Colony, and remit to the Crown Agents aforesaid, a sum of money equal to £1 per cent. of the entire amount of the said principal of £700,000 borrowed in terms of the beforementioned advertisement issued by the Crown Agents for the Colonies, and for the time being owing, in order to form a Sinking Fund for the repayment of the said sum of £700,000, in manner provided in Sections 11 to 18, inclusive, of Law 35 of 1880: Provided, however, that nothing in this Law contained shall apply or extend to any of the remaining portion of the Loan raised, or to be raised under and by virtue of the said Law 35, 1880, beyond the said £700,000 raised in terms of the advertisement of the Crown Agents aforesaid.

Sec. 17, Law 10, 1882, partially amended.

Secs. 11 to 18 of Law 35, 1880, to apply to the £700,000 raised under this Law.

Appropriation of Sinking Fund.

2. This Law shall commence and take effect from and after the date of the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (A).

Commencement

Law No. 41, 1884.

"To raise a Loan for the Construction and Equipment of certain Lines of Railway in the Colony of Natal, and for other purposes."

[8th November, 1884.]

WHEREAS under the provisions of "The Natal Loan Law, 1881, for the Extension of Railways and for other purposes," a certain Contract dated the 17th day of April, 1882, has been entered into for the construction and maintenance of the Ladysmith Extension Railway, and a certain Supplemental Contract, dated the 7th day of July, 1882, has also been entered into for the supply of materials for bridges, culverts, permanent way, points, crossings, and fencing, required in the construction and equipment of the said Ladysmith Extension Railway:

AND WHEREAS it is necessary to expend in and about the construction and equipment of the said Lines of Railway, under and in terms of the said Contract and the Contract supplemental thereto, a further sum of £350,000 (Three Hundred and Fifty Thousand Pounds Sterling):

AND WHEREAS it is necessary to expend on and about the Reconstruction and Strengthening of the Bridges and on the Construction of Buildings and other Works on or upon the "Natal Government Railways," a sum not exceeding £45,000 (Forty-five Thousand Pounds Sterling):

(A) November 13, 1883.

Law 44, 1884. AND WHEREAS it is necessary to make provision for the payment of a sum not exceeding £20,000 (Twenty Thousand Pounds Sterling), being the amount awarded to the late Contractors, Messrs. Wythes & Jackson, including the law costs incurred by the Government on and about said reference and award :

AND WHEREAS it is also necessary to raise a sum of money, not exceeding £1,500 (Fifteen Hundred Pounds Sterling), to pay over to the Corporation of Durban as the Consideration Money for the transfer to the Government of certain War Department lands necessary for Railway purposes :

AND WHEREAS it is necessary to make provision for the Construction of Harbour Works, of an amount not exceeding £120,000 (One Hundred and Twenty Thousand Pounds Sterling) :

AND WHEREAS it is also necessary to make provision for raising a sum of money not exceeding £113,500 (One Hundred and Thirteen Thousand, Five Hundred Pounds Sterling), for the Trigonometrical Survey and the Construction of Public Works :

AND WHEREAS it is expedient to make provision for raising, by way of loan, funds for the purposes set forth and described in this preamble :

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

Short title.

1. This Law may be cited for all purposes as "The Natal Loan Law, 1884" (A).

2. In this Law,—

Interpretation clause.

The expression "the Governor" means and includes the Governor or Officer administering this Government for the time being.

The expression "debenture" means a debenture or other security issued under the authority of this Law, and

The expression "the Crown Agents" means the Crown Agents for the Colonies in London for the time being.

Governor authorised to borrow £650,000 for certain purposes.

3. The Governor may from time to time borrow upon debentures, or upon such other form of security as he may think preferable, such sum or sums of money, not exceeding in the whole the sum of £650,000 (Six Hundred and Fifty Thousand Pounds Sterling), and may employ and empower the Crown Agents or the Colonial Treasurer as hereinafter provided to negotiate and to effect the loan hereby authorised, and the amount so raised shall be applied for the following purposes, and for no other purposes :—

(a) The sum of £350,000 (Three Hundred and Fifty Thousand Pounds Sterling), or so much thereof as may be required, to pay for the construction, maintenance, equipment, and working of the Railway and works which may be constructed between the City of Pietermaritzburg and the Town of Ladysmith, and for all necessary services and labour in connection with the said Railways and works, and for the purchase of such lands, easements, and other property as may have to be purchased for the same, and for the purchase of all requisite materials, plant, engines, rolling stock, and other things in connection with the Railways and the equipment and working thereof, and other purposes of the said recited Law, being the "Natal Loan Law, 1881."

(A) See Law 16, 1888, post.

- (b) A sum not exceeding £45,000 (Forty-five Thousand Pounds Sterling), to be expended on and about the Reconstruction and Strengthening of the Bridges and in the Construction of Buildings and other Works on or upon the Natal Government Railways. Law 44, 1884.
- (c) A sum not exceeding £20,000 (Twenty Thousand Pounds Sterling), to be paid to Messrs. Wythes & Jackson, the late Contractors for the construction of the Main Line between Durban and Pietermaritzburg and the North and South Coast Lines of the Natal Government Railways, being for payment of the amount awarded to such Contractors by the Consulting Engineer as Arbitrator in regard to certain claims for the construction of the aforesaid lines of Railway, made by the said Contractors against the Government of Natal, such sum of £20,000 (Twenty Thousand Pounds Sterling), including the law costs incurred by the Government on and about said reference and award.
- (d) The sum of £1,500 (Fifteen Hundred Pounds Sterling) to be paid over to the Corporation of Durban as the consideration money for the transfer from the War Department to the Government of certain lands for Railway purposes.
- (e) The sum of £120,000 (One Hundred and Twenty Thousand Pounds Sterling), or so much thereof as may be appropriated in terms of the "Harbour Board Law," No. 29, 1880, for the construction of Harbour Works at Port Natal.
- (f) A sum not exceeding £113,500 (One Hundred and Thirteen Thousand Five Hundred Pounds Sterling) for the Trigonometrical Survey and Public Works of a permanent character approved by the Legislature of Natal.

4. When the borrowing shall be upon debentures, such debentures shall be issued in this Colony or in England, or partly in this Colony and partly in England, for sums of not less than One Hundred Pounds each, but for any multiple of £100 upon the best and most favourable terms that can be obtained.

Debentures not under £100 each to be issued in this Colony or England.

5. When the borrowing shall be upon Colonial Stock, the provisions hereinafter laid down in Sections 6, 7, 8, and 9 shall be observed.

When borrowing upon Colonial Stock. Purchaser to be credited by Treasurer for amount purchased on production of scrip certificate.

6. Such Stock shall be issued by crediting the purchaser thereof for such sum thereof as he shall purchase, in books to be kept for that purpose by the Treasurer of the Colony, such credit to be given in the first instance upon production and delivery to the said Treasurer by such purchaser, or by his order, of a scrip certificate of the amount of Stock for which such credit shall be claimed, such certificate being signed by the Colonial Secretary and countersigned by the said Treasurer, and by the Auditor, and which scrip certificate shall be kept in the office of the said Treasurer.

7. Such Stock shall bear interest at a rate to be specified in the said scrip certificate, not to exceed 5 per cent. per annum, and such interest shall be payable half-yearly on the days to be fixed at the date of the first issue, and shall be paid on such days, respectively, or so soon thereafter as demand shall be made therefor by the lawful holder for the time being of such Stock, to such lawful holder or his duly authorised attorney, at the office of the Treasurer in Natal (A).

Interest not to exceed 5 per cent. and payable half-yearly.

(A) See Law 9, 1888, post.

Law 44, 1884.

Transfer of
Stock.

8. Such Stock shall be transferable by transfer in the books of the said Treasurer, and every person to whom any such credit, as aforesaid, shall have been given in the said books in the first instance, or to whom any such transfer shall thereafter have been made in the said books, shall be entitled to require and demand of the said Treasurer a receipt or certificate stating the amount of such Stock standing to his credit in such books.

Stock to be
disposed of by
public tender.

9. Such Stock shall be put up for public tender at a price to be fixed and determined by the Governor, and in such amounts as may from time to time seem fit, and shall be disposed of for the best terms which can be thus obtained, and if more tenders than one offering the same terms shall be received for a greater amount of such Stock than the amount disposable, it shall be lawful to accept any one or more of such tenders, or any part of such tenders as circumstances may make expedient: Provided, always, that it shall be competent to reject the whole or any of the tenders should such be deemed unsatisfactory.

Interest not to
exceed 5 per
cent.

10. The principal money secured by every debenture issued under the authority of this Law shall bear interest at a rate not exceeding Five Pounds per cent. per annum, and such principal money and interest shall be and are hereby charged upon and made payable out of the general revenue and assets of the Colony, but subject to all now subsisting debts and sums of money charged on such revenue and assets by virtue of any Law heretofore passed.

How and when
interest and
principal are to
be paid.

11. The interest on the principal money secured by any debenture shall commence from a day to be named in the debenture, and shall be paid half-yearly as regards the portion of the loan raised in England at the office of the Crown Agents in London, and as regards the portion of the loan raised in Natal at the Treasury of this Colony (A), and the principal sum secured shall be paid at the same places, on a day to be also named in the debenture, and being not more distant than forty-five years from the First day of January, 1886.

Debentures
may be issued
at premium or
discount on par
value.

12. The debentures issued under this Law may be issued at the par value thereof, or at a premium upon or discount from the par value, as the Governor of the Colony or the Crown Agents shall deem to be expedient at the time of issue.

How debentures
must be signed.

13. Every debenture shall be signed by the Colonial Secretary and the Colonial Treasurer of Natal, and as regards that portion of the Loan raised in England shall be countersigned by the Crown Agents, or one of them as agents or agent for the negotiation of the loan hereby authorised, and be registered before issue in the Register Books to be kept for that purpose in the office of the Crown Agents, and in the Treasury of the Colony.

Coupons to be
attached to
debentures for
payment of
interest.

14. To every debenture shall be attached, at the time of the issue thereof, coupons for the payment of the interest upon the principal sum secured by the debenture, to become due in each half year, either during the whole period during which the debenture shall have to run or a part of such period, as the Governor may determine.

Debentures and
coupons trans-
ferable.

15. Every debenture and coupon shall be transferable, and the right to receive the principal money and interest respectively secured or represented thereby shall pass by delivery.

Appropriation
out of general
revenue for pay-
ment of interest
and remission of
to Crown
Agents.

16. The Governor shall appropriate and set apart in each half year, out of the general revenue of the Colony, a sum sufficient for the payment of the interest accruing in such half year on the entire amount of the principal moneys borrowed under this Law, and for the time being owing, and shall remit to the Crown Agents in London

(A) See Law 9, 1888, post.

so much of the sum so appropriated as may be from time to time required for the payment of such half-year's interest when the same shall fall due in England.

Law 44, 1884.

17. The Governor shall, half-yearly, commencing from the first day of January, 1886, also appropriate and set apart out of the General Revenue of the Colony a sum of money equal to one-half of one per cent. of the principal money of £536,500 (Five Hundred and Thirty-six Thousand Five Hundred Pounds Sterling) borrowed under and by virtue of the provisions of this Law for the various purposes specified in Sub-sections (a), (b), (c), (d), and (e) of Section 3 hereof, and for the time being owing, in order to form a Sinking Fund, as hereinafter provided, and shall, half-yearly, remit the same to the Crown Agents for that purpose (A).

Appropriation for sinking fund.

18. The Governor shall also, half-yearly, commencing from the first day of January, 1886, also appropriate and set apart, out of the General Revenue of the Colony, a sum of money equal to 2 per cent. of the entire amount of the principal money of £113,500 (One Hundred and Thirteen Thousand Five Hundred Pounds Sterling), borrowed for the Trigonometrical Survey and the construction of Public Works, as set forth in Sub-section (f) of Section 3 hereof, and for the time being owing, in order to form a Sinking Fund, as hereinafter provided, and shall, half-yearly, remit the same to the Crown Agents for that purpose.

Appropriation for sinking fund.

19. The Governor shall, with the approval of the Secretary of State for the Colonies for the time being, nominate and appoint two or more persons to be trustees for the purposes of the sinking funds before mentioned, and may, from time to time, with the like approval, nominate and appoint other fit persons to fill casual vacancies in the number of trustees occasioned by death or otherwise, so that the number of trustees may never be less than two.

Appointment of Trustees for sinking fund.

20. The Crown Agents shall pay over to the trustees for the time being all sums remitted to them under Sec. 17 hereof, and the trustees shall accumulate the same to form a Sinking Fund for the redemption of the Loan hereby authorised, namely, £536,500 (Five Hundred and Thirty-six Thousand Five Hundred Pounds Sterling), for the several purposes mentioned in Sub-sections (a), (b), (c), (d), and (e) of Sec. 3 of this Law, as aforesaid, by investing the same sums and all the resulting income thereof in some one or more of the securities of the Imperial Government of Great Britain, or of the Government of any Colony or Dependency of Great Britain.

Duties of Trustees on receiving sums remitted for sinking fund.

21. The Trustees may from time to time apply any part of the Sinking Fund in the purchase of Debentures issued under the authority of this Law for the several purposes mentioned in Sub-sections (a), (b), (c), (d), and (e) of Section 3 of this Law. All Debentures so purchased, and the interest coupons attached thereto, shall be immediately cancelled or destroyed. Subject to this power of applying the same, 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 for the purposes above referred to, under the authority of this Law "pari passu," and without any priority.

Trustees may apply sinking fund in purchase of debentures issued under this Law.

22. In case the Sinking Fund shall be insufficient for the payment of all principal moneys borrowed under the authority of this Law, for the purposes referred to in the last preceding Section, at the respective times when the same shall have become due, the Governor shall make good the deficiency out of the General Revenue and Assets of the Colony.

Deficiency to be made good out of general revenue.

23. The Crown Agents shall pay over to the trustees for the time being, all sums remitted to them under Sec. 18 hereof, and the

Duties of Trustees on receiving sums remitted for sinking fund.

(A) See Law 24, 1887, post, which modifies this section and section 18.

Law 44, 1884. trustees shall accumulate the same to form a sinking fund for the redemption of the Loan hereby authorised, namely, £113,500 (One Hundred and Thirteen Thousand Five Hundred Pounds Sterling) for the Trigonometrical Survey and the Construction of Public Works, as mentioned in Sub-section (f) of this Law, as aforesaid, by investing the same sums, and all the resulting income thereof in some one or more of the securities of the Imperial Government of Great Britain, or of the Government of any Colony or Dependency of Great Britain.

Trustees may apply sinking fund in purchase of debentures issued under this Law.

24. The Trustees may from time to time apply any part of the Sinking Fund in the purchase of Debentures issued under the authority of this Law for the Trigonometrical Survey and the construction of Public Works, as mentioned in Sub-section (f) of this Law as aforesaid. All Debentures so purchased, and the interest coupons attached thereto, shall be immediately cancelled or destroyed. Subject to this power of applying the same, 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 for the purposes above referred to, under the authority of this Law, "pari passu," and without any priority.

Deficiency to be made good out of general revenue.

25. In case the Sinking Fund shall be insufficient for the payment of all the principal moneys borrowed under the authority of this Law for the purposes referred to in the last preceding Section, at the respective times when the same shall have become due, the Governor shall make good the deficiency out of the General Revenue and Assets of the Colony.

Debentures, when paid, to be cancelled.

26. Every debenture, the principal money secured by which shall be repaid, shall be delivered up to the Crown Agents and be by them immediately cancelled or destroyed.

No re-borrowing allowed.

27. No money shall be re-borrowed, nor shall any re-issue of debentures be made in respect of any debentures purchased or paid off and cancelled or destroyed as aforesaid.

Application of moneys borrowed.

28. All moneys borrowed under the authority of this Law shall be applied to and for the purposes for which the same are hereby authorised to be borrowed, and in payment of all costs and expenses of and incidental to the borrowing of the same, and for no other purpose whatsoever.

Commencement

29. This Law shall not come into operation unless and until the Officer administering the Government notifies by Proclamation that it is Her Majesty's pleasure not to disallow the same, and thereafter it shall come into operation upon such day as the Officer administering the Government shall notify by the same or any other Proclamation (A).

Law No. 1, 1886.

"To provide for the creation of Natal Consolidated Stock."

[8th November, 1886.]

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

Short title.

1. The short title of this Law shall be the "Natal Consolidated Stock Law, 1886."

Governor in Council empowered to make arrangements for conversion of sinking fund bearing securities into Natal Consolidated Stock without sinking fund.

2. The Governor in Council, notwithstanding any provision in any Law authorising the raising of any public loans for public purposes, whereby it is required that any sum shall be set apart out of the general revenue of the Colony to be invested as a sinking

(A) Came into operation June 16, 1885. See Proclamation in *Government Gazette*, June 16, 1885.

fund, is hereby authorised to initiate and enter into arrangements with the holders of any such existing sinking fund bearing securities, whereby such securities may be converted into Natal Consolidated Stock, for which no payment from the general revenue to form a sinking fund shall be required. Law 1, 1886.

3. The Governor in Council shall have, and may exercise for the purposes of this Law, the following powers or authorities, or any of them:— Powers of Governor in Council.

- (a) He may from time to time declare all or any of the Natal Loans, for the redemption of which a sinking fund has been invested or created (A), whether existing in the form of stock or debentures or other securities, to be convertible into Consolidated Stock of such denomination, with such interest, not exceeding four per centum per annum, and on such conditions as he may before the creation thereof from time to time determine. Conversion of Natal Loans.
- (b) He may authorise the creation and sale of any such Consolidated Stock for the purpose of raising money for redeeming any such outstanding Sinking Fund bearing securities, held for such Loans as may be necessary.
- (c) He may authorise the creation and issue of such an amount of Consolidated Stock in exchange for the Sinking Fund bearing securities held for such loans as may be necessary, and paying any expenses in the creation of Consolidated Stock, and otherwise carrying out the provisions of this Law on such conditions as he may determine.

4. Any conversion so authorised may be effected either by arrangement with the holders of existing securities, or by purchase thereof out of moneys raised by a sale of new Consolidated Stock, or partly in one way and partly in the other. Mode of effecting conversion.

5. Any power by this Law conferred on the Governor in Council may be exercised from time to time, and he may alter any conditions as often as occasion may require, but so that no contract or engagement entered into before the exercise of any such power, or the making of such alterations, shall be prejudiced or affected thereby. Powers conferred on Governor in Council may be exercised from time to time.

6. Nothing in this Law contained shall authorise an increase of the capital or of the annual charge of any Sinking Fund bearing Loan, except that where any such securities exchanged for new Consolidated Stock bear a higher rate of interest than the new Consolidated Stock, an additional amount of new Consolidated Stock may be created and issued to make up the difference in saleable value between the aforesaid securities and the new Consolidated Stock (B). Law not to affect capital or annual charge of any sinking fund bearing Loan except as mentioned.

7. All existing Loans converted under the provisions of this Law into such Consolidated Stock, and interest thereon, and all charges and expenses incurred in carrying out the provisions of this Law, or any agreement made in pursuance thereof, shall be chargeable upon, and payable out of, the Revenue and Assets of the Colony. Converted Loans and expenses charged on revenue and assets of the Colony.

8. The Governor, with the approval of the Secretary of State, may from time to time enter into such agreement with the Crown Agents as to the Governor may seem fit, providing for all or any of the following things:— Governor may enter into agreement with Crown Agents for inscribing, managing, &c., of stock.

- (1.) For inscribing Consolidated Stock in the books of such Agents.

(A) Law 21, 1887, s. 1, post, adds the words "and all other Natal Loans."

(B) See Law 21, 1887, post, sec. 3.

Law 1, 1886.

- (2.) For managing the creation, inscription, and issue of Consolidated Stock.
- (3.) For effecting the conversion of Loans into Consolidated Stock, and managing transfers thereof.
- (4.) For paying interest on Consolidated Stock.
- (5.) For issuing Consolidated Stock certificates to bearer, and, as often as occasion shall require, re-issuing or re-inscribing Consolidated Stock, and re-issuing Consolidated Stock certificates.
- (6.) Generally conducting all business connected with Stock or Loans.
- (7.) And for the remuneration of such Agents in respect of any such agreements.

Debentures issued under Laws in Schedule to be cancelled.

9. The Debentures issued under any of the Laws enumerated in the Schedule to this Law annexed, and exchanged or otherwise converted into new Consolidated Stock under this Law shall be forthwith cancelled by the Crown Agents, and the trustees appointed by the Section 12 of the Consolidated Loan Law 16, 1871, and the trustees of the Sinking Funds appointed under other the Laws enumerated in the Schedule hereto, shall determine what amount of the Sinking Fund held by them and created for the repayment of such Debentures, or other form of securities, shall be released, and in the determination of such question the aforesaid trustees shall take into consideration the value of the whole investments held by them on account of such Sinking Funds, the amount of debt remaining in charge on each such Sinking Fund, and such other matters as the trustees may think fit to take into account.

Sinking funds set free by conversion, &c., how dealt with.

10. So much of the Sinking Funds accumulated under any of the Laws in the Schedule to this Law as may be set free by the conversion by exchange or by purchase of any Stocks or Loans issued under said Laws with new Consolidated Stock under this Law shall be converted into money and paid into the General Revenue for the liquidation of the general liabilities of the Colony.

Existing rights protected.

11. Nothing in this Law and nothing done under the provisions of this Law, except by agreement, shall take away, abridge, or prejudicially affect any right or interest by way of priority or otherwise of any person in or to the general revenue or assets of the Colony or in any Sinking Fund, or any remedy which any person would have had or might have exercised in respect of any such right or interest as if this Law had not been passed.

Commencement

12. This Law shall commence and take effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (A).

SCHEDULE.

Law No. 8 of 1860.
 Law No. 15 of 1864.
 Law No. 16 of 1871.
 Law No. 5 of 1875.
 Law No. 1 of 1876.
 Law No. 19 of 1876.
 Law No. 35 of 1880.
 Law No. 44 of 1884 (B).

(A) November 9, 1886.

(B) Law 21, 1887, post, adds "The Law 10, 1882."

Law No. 2, 1887.

“To Empower the Governor in Council to Borrow a sum not exceeding £100,000 for the exigencies of the Public Service.”

[10th January, 1887.]

WHEREAS it is expedient and necessary to empower the Governor in Council to raise and borrow upon Loan such sums of money not exceeding £100,000 as may be required and necessary for the exigencies of the service:

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

1. The Governor in Council may, and is hereby authorised and empowered to raise and take upon Loan from time to time such sums of money, not exceeding the sum of £100,000, which may be required to defray any insufficiency in the general revenue, to meet the charges made payable by Laws out of general revenue for Establishments and other services for and during the year 1886, and to pay for the like services and charges when authorised by Law for the year 1887, in anticipation of the revenue to be collected for that year.

Power to Governor in Council to raise loan for Public Service.

2. All sums of money raised or borrowed under the provisions of this Law shall be applied to defray the costs of establishments and all other services made payable by Laws out of the general revenue for and during the year 1886, and which the general revenue received during the year was insufficient to meet, and to defray the cost of establishments and other services when authorised by Law for the year 1887, and for which services when due and payable sufficient revenue for the year 1887 has not been collected.

Application of monies.

3. The Governor in Council may authorise the Colonial Treasurer to borrow and take upon loan on Treasury Bills from any Bank, Joint Stock Company, or person, such sums as may be from time to time required under this Law, and the proceeds of all such Treasury Bills shall be paid into the general revenue.

Power to borrow sums on Treasury Bills.

4. Such Treasury Bills shall bear interest at a rate to be agreed upon by the Governor in Council, and shall be payable at par at such time or times, or after such notice as the Governor in Council shall, before the issuing of such Treasury Bills, fix and determine.

Interest on Treasury Bills. When Bills to be payable.

5. The principal and interest of all Treasury Drafts issued under this Law shall be and are hereby charged upon and made payable out of the general revenue and assets of the Colony.

Principal and interest charged on revenue and assets of Colony.

6. This Law may be cited for all purposes as the Temporary Loans Law, 1886.

Short title.

7. This Law shall commence and take effect from and after the date of the promulgation thereof in the “NATAL GOVERNMENT GAZETTE”(A).

Commencement

Law No. 21, 1887.

“To Consolidate all existing Natal Loan Laws not bearing Sinking Funds.”

[14th February, 1887.]

WHEREAS it is expedient to authorise the conversion and consolidation of all existing Natal Loans:

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

(A) January 18, 1887.

E

Law 21, 1887.

Amendment of Sec. 3, Sub-sec. (a), Law 1, 1886.

1. In Section three of the "Natal Consolidated Stock Law, 1886," sub-section (a), there shall be inserted and added after the word "created," in the third line thereof, the words, "and all other Natal Loans."

Amendment of Schedule of Law 1, 1886.

2. There shall be inserted in the Schedule of the said "Natal Consolidated Stock Law, 1886," the Law as follows—"The Law 10, 1882."

Application of Sec. 6, Law 1, 1886.

3. Nothing in Section 6 of Law No. 1 of 1886 shall apply to Natal Loans consolidated after the passing of this Law.

Commencement and construction.

4. This Law shall commence and take effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE," and shall be read and construed as one with the "Natal Consolidated Stock Law, 1886" (A).

Law No. 24, 1887.

"To amend Law 44, 1884."

[25th February, 1887.]

WHEREAS it is expedient to discontinue the payment of Sinking Funds under the Natal Loan Law, 1884:

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

Application of Secs. 17 and 18 of Law 44, 1884

1. Sections seventeen and eighteen of the Natal Loan Law, 1884, relating to Sinking Funds to be created for the repayment of the Loans to be raised under the said Law, shall not apply or extend to any moneys raised under said Law after the coming into effect of this Law.

Commencement

2. This Law shall commence and take effect from and after the date of the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (B).

Law No. 49, 1887.

"To raise a loan for the construction, equipment, and maintenance of certain railway extensions; for the continuation and completion of the Harbour Works at the Port of Natal; for the refund of a certain sum to the General Revenue; and for certain other Public Works."

[21st November, 1887.]

WHEREAS it is expedient to make provision for raising, by way of loan, a sum of money not exceeding £500,000 (Five Hundred Thousand Pounds Sterling), to be applied for the construction, equipment, and maintenance of certain railway extensions in the Colony of Natal; for the continuation and completion of the Harbour Works at the Port of Natal; for the refund of a certain sum to the General Revenue; and for certain other Public Works:

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

Short title.

1. This Law may be cited for all purposes as "The Natal Loan Law, 1887."

(A) February 15, 1887.

(B) March 8, 1887.

2. In this Law—

The expression "the Governor" means and includes the Governor or Officer administering this Government for the time being.

The expression "debenture" means a debenture or other security issued under the authority of this Law, and

The expression "the Crown Agents" means the Crown Agents for the Colonies in London for the time being.

Law 49, 1887.

Interpretation.

Governor authorised to borrow £500,000.

Application of moneys borrowed.

Not more than £340,000 out of the £500,000 authorised to be borrowed during 1887.

Application of such moneys.

Further sums out of the £500,000 may be raised after end of 1887.

Issue of debentures.

Interest not to exceed 5 per cent. per annum

Calculation and payment of interest, Payment of principal.

3. The Governor may from time to time borrow upon debentures, or upon such other form of security as he may think preferable, such sum or sums of money, not exceeding in the whole the sum of £500,000 (Five Hundred Thousand Pounds Sterling), and may employ and empower the Crown Agents or the Colonial Treasurer, as hereinafter provided, to negotiate and to effect the loan hereby authorised, and the amount so raised shall be applied for the following purposes, and for no other purposes—that is to say, the sum of £140,000 (One Hundred and Forty Thousand Pounds Sterling) as a refund to the General Revenue of the Colony of sums heretofore advanced from General Revenue for Railway and Harbour Construction purposes; and the sum of £360,000 (Three Hundred and Sixty Thousand Pounds Sterling) for the construction, equipment, and maintenance of certain Railway extensions in the Colony of Natal; and for the continuation and completion of the Harbour Works at Durban; and for such other public works as may be authorised by the Council.

4. There shall be borrowed and raised as aforesaid of the said Loan of £500,000 (Five Hundred Thousand Pounds Sterling) during the year 1887, any such sum or sums of money as may be required from time to time for any of the purposes of this Law, not exceeding in the whole the sum of £340,000 (Three Hundred and Forty Thousand Pounds Sterling), out of which said sum of £340,000 (Three Hundred and Forty Thousand Pounds Sterling), the sum of £140,000 (One Hundred and Forty Thousand Pounds Sterling) is to be paid as a refund to General Revenue of sums heretofore advanced from General Revenue for Railway and Harbour Construction purposes, and a sum not exceeding £200,000 (Two Hundred Thousand Pounds Sterling) is to be utilised for Railway and Harbour purposes as aforesaid, and for other public works.

5. The Governor may from time to time after the end of the year 1887 borrow and raise any further sum or sums of money out of the said Loan of £500,000 (Five Hundred Thousand Pounds Sterling) as may be required for the purposes of this Law, and as may be sanctioned by the Legislature of Natal.

6. When the borrowing shall be upon debentures, such debentures shall be issued in England for sums of not less than One Hundred Pounds each, or for any multiple of One Hundred Pounds upon the best and most favourable terms that can be obtained.

7. The principal money secured by every debenture issued under the authority of this Law shall bear interest at a rate not exceeding Five Pounds per centum per annum, and such principal money and interest shall be and are hereby charged upon and made payable out of the general revenue and assets of the Colony, but subject to all now subsisting debts and sums of money charged on such revenue and assets by virtue of any Law heretofore passed.

8. The interest on the principal money secured by any debenture shall commence from a day to be named in the debenture, and shall be paid half-yearly at the office of the Crown Agents in London, and the principal sum secured shall be paid at the same place.

Law 49, 1887.

Debentures may be issued at par, premium, or discount.

How signed and registered.

Coupons.

Debentures and coupons transferable.

Appropriation from General Revenue of interest.

Application of moneys to be made according to this Law.

Commencement

9. The debentures issued under this Law may be issued at the par value thereof, or at a premium upon or discount from the par value, as the Crown Agents shall deem to be expedient at the time of issue.

10. Every debenture shall be signed by the Colonial Secretary and the Colonial Treasurer of Natal, and be countersigned by the Crown Agents, or one of them as agents or agent for the negotiation of the loan hereby authorised, and be registered before issue in the Register Books to be kept for that purpose in the office of the Crown Agents.

11. To every debenture shall be attached, at the time of the issue thereof, coupons for the payment of the interest upon the principal sum secured by the debenture, to become due in each half-year, either during the whole period during which the debenture shall have to run or a part of such period, as the Governor may determine.

12. Every debenture and coupon shall be transferable, and the right to receive the principal money and interest respectively secured or represented thereby, shall pass by delivery.

13. The Governor shall appropriate and set apart in each half-year, out of the General Revenue of the Colony, a sum sufficient for the payment of the interest accruing in such half-year on the entire amount of the principal moneys borrowed under this Law, and for the time being owing, and shall remit the sum so appropriated to the Crown Agents in London in time for the payment of such half-year's interest when the same shall fall due.

14. All moneys borrowed under the authority of this Law shall be applied to and for the purposes for which the same are hereby authorised to be borrowed, and in payment of all costs and expenses of and incidental to the borrowing of the same, and for no other purpose whatever.

15. This Law shall commence and take effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (A).

Law No. 9, 1888.

"To amend the Natal Loan Law, 1884."

[4th September, 1888.]

WHEREAS it is expedient to authorise the payment in England of interest on certain Debentures to be raised under "The Natal Loan Law, 1884."

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

Interest on moneys raised after passing of this Law, where payable.

1. The Interest on the principal money secured by any Debenture raised under "The Natal Loan Law, 1884," in this Colony after the passing of this Law, shall be payable either in England at the office of the Crown Agents in London, or at the Colonial Treasury in Natal.

Commencement

2. This Law shall commence and take effect from and after the date of the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (B).

(A) November 22, 1887.

(B) September 11, 1888.

LOANS.

Law No. 12, 1888.

"To raise a Loan for the Construction, Equipment, and Maintenance of certain Railway Extensions, and for certain other Public Works, in the Colony of Natal."

[4th September, 1888.]

WHEREAS it is expedient to raise a Loan of £1,500,000 (One Million Five Hundred Thousand Pounds sterling), to be applied for the Construction, Equipment, and Maintenance of certain Railway Extensions, and for certain other Public Works in the Colony of Natal:

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

1. The Law No. 4, 1888, "The Natal Government Railway and Public Works Loan Law, 1888," shall be and the same is hereby repealed. Repeal of Law 4, 1888.

2. The Governor may borrow the sum of £1,500,000 (One Million Five Hundred Thousand Pounds Sterling), either by Debentures or by Consolidated Stock, or partly by one and partly by the other, in accordance with the provisions of the "General Loan Law, 1882," and the amount so raised shall be applied for the following purposes, and for no other—that is to say, for the Construction, Equipment, and Maintenance of certain Railway Extensions, and for such other Public Works as may be authorised by the Legislature of Natal. Power to borrow £1,500,000.

3. This Law may be cited as "The Natal Government Railway and Public Works Loan Law, 1888," and shall commence and take effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (A). Short title and commencement

Law No. 16, 1888.

"To provide for the appropriation of the unexpended balance of moneys borrowed under the authority of certain Laws in the Equipment and Reconstruction of Open Lines of Railway."

[24th September, 1888.]

WHEREAS of the moneys authorised to be raised and borrowed by the following Laws, viz: Law No. 5 of 1875, entitled Law "To raise a Loan for the Construction and Equipment of certain Railways in the Colony of Natal"; Law No. 35 of 1880, entitled Law "To raise a Loan for the Construction and Equipment of certain Railway Extensions in the Colony of Natal, and for certain other purposes"; and Law No. 44 of 1884, entitled Law "To raise a Loan for the Construction and Equipment of certain Lines of Railway in the Colony of Natal, and for other purposes"; a certain balance now remains unexpended after the purposes for which the Loans were authorised to be raised have been effected, and it is expedient to devote such balance to purposes similar to those contemplated by the said Laws, for the more effectual carrying out of the objects of those Laws, to wit, to equip and re-construct as may be necessary the lines of Railway now open for traffic:

BE IT THEREFORE ENACTED by the Governor of the Colony of Natal, by and with the advice of the Legislative Council thereof, as follows:—

(A) September 11, 1888.

Law 16, 1888.

Unexpended balance of loans under certain Laws formed into a fund.

Appropriation of fund.

1. The unexpended balance of moneys raised under authority of the Laws No. 5 of 1875, No. 35 of 1880, and No. 44 of 1884, respectively, shall be formed together into a common fund, to be called "The Railway Loans Balance Fund."

2. It shall be lawful for the Governor, with the advice and consent of the Executive Council, from time to time, as may be required, to authorise the appropriation and expenditure of moneys out of the said Railway Loans Balance Fund in the carrying out of any necessary works of repair and re-construction of any lines of Railway open for traffic, and in the purchase and completion of any equipment required for the exigencies of the service thereof, as per Schedule hereunto annexed.

SCHEDULE OF PROPOSED EXPENDITURE UNDER THIS LAW.

	£	s.	d.
Bridge Re-construction	14,360	8	7
Workshops	11,000	0	0
Barracks	2,000	0	0
Additional Wire, Durban to Pietermaritzburg	656	5	0
Weigh Bridge, Ladysmith	500	0	0
Goods Forwarding Shed, Durban	1,221	0	0
Station Buildings and Sidings, Avoca	500	0	0
Stationmaster's House and Sidings, Dargle Road	607	0	0
Waiting and Refreshment Rooms, Ladysmith	750	0	0
Fifteen Wagons	700	0	0
Three Locomotive Engines	1,950	0	0
Additional Rolling Stock	7,514	5	1
	£41,758	18	8

Law No. 29, 1890.

"To raise a loan for the construction, equipment, and maintenance of certain railway extensions, for the continuation of the Harbour Works at the Port of Natal, and for certain other public works."

[8th December, 1890.]

WHEREAS it is expedient to raise a loan of £2,000,000 (Two Million Pounds Sterling), to be applied for the construction, equipment, and maintenance of certain railway extensions, and for the continuation of the Harbour Works at the Port of Natal, and for the construction of certain other public works which have already been, or may hereafter be, authorised by the Legislature of Natal:

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

Loan of £2,000,000 authorised.

1. The Governor may borrow the sum of £2,000,000 (Two Million Pounds Sterling), either by debentures, or by consolidated stock, or partly by one and partly by the other, in accordance with the provisions of "The General Loan Law, 1882," and the amount so raised shall be applied for the following purposes as set forth in the Schedule to this Law, and for no other, that is to say:—

Application of moneys.

- (a) For the construction, equipment, and maintenance of certain railway extensions.
- (b) For the continuation of the Harbour Works at Port Natal; and

(c) For the construction of other Railway, Harbour, and other public works which have already been, or may hereafter be authorised by the Legislature of Natal; but subject to the provisions contained in Clause 7. Law 29, 1890.

2. [Repealed by Law No. 1, 1891.]

3. The Governor in Council, or the Crown Agents for the Colonies, may borrow from time to time in anticipation of the raising of any portion of the loan of Two Million Pounds Sterling hereby authorised, and for any of the purposes by this Law contemplated, any sum or sums not exceeding in the whole the sum of One Million Pounds Sterling, by the issue of Treasury Bills, in such manner as may be most convenient for the public service, and shall repay the principal moneys so borrowed out of the moneys to be raised under the provisions of this Law. Authority for borrowing sums not exceeding £1,000,000 upon Treasury Bills re-payable from moneys raised under the principal loan.

The issue of such Treasury Bills shall not "pro tanto" exhaust the borrowing powers conferred by this Law.

The interest upon any Treasury Bill issued under the provisions of this Law 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 by this Law authorised.

4. The issue of Treasury Bills for the sum of Two Hundred Thousand Pounds Sterling already made by authority of the Governor in Council, shall be and is hereby declared to be a portion of the One Million Pounds Sterling authorised to be issued under the provisions of the foregoing section. Issue of Treasury Bills already made for £200,000 to be portion of sum authorised by Sec 3.

5. Treasury Bills issued under the provisions of this Law:—

- (a) Shall be for sums of not less than One Thousand Pounds Sterling.
 - (b) Shall be signed by the Colonial Secretary and the Treasurer if issued in Natal, and by the Crown Agents for the Colonies if issued in England.
 - (c) Shall bear interest at a rate not exceeding Five Pounds per centum per annum.
 - (d) Shall be payable at par at such time or times, not being more than twelve months, or after such notice as the Governor in Council or the Crown Agents for the Colonies shall before the issuing of such Treasury Bills fix and determine.
- Form and terms of Treasury Bills issued under this Law.

6. Where, pending the receipt of funds raised under the provisions of the loan by this Law authorised, it shall become necessary to pay and retire any Treasury Bills issued under the provisions hereof, the principal money of such Bills or any of them may be replaced by raising a sum not exceeding the amount of such principal money, by the issue of further Treasury Bills in such manner as may be most beneficial for the public service: Provided, however, that the principal sum at any one time due upon and by virtue of Treasury Bills shall in no case exceed the sum of One Million Pounds Sterling. Issue of fresh Treasury Bills in place of retired Bills.

7. The sum of £890,000 (Eight Hundred and Ninety Thousand Pounds Sterling) mentioned in the Schedule of this Law shall not be spent, except in pursuance of a Law or Laws hereafter to be passed, appropriating the said sum, or any portion or portions of the said sum, to specified Works. Reservation of sum mentioned in Schedule until appropriated by special Laws.

8. This Law may be cited as "The Natal Loan Law, 1891," and shall commence and take effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (A). Short title and commencement

Law 29, 1890.

SCHEDULE.

Schedule:	Additional Amount required for Completion of Lines of Railway now being constructed	£200,000
	Cost of Additional Rolling Stock found necessary to meet the Growing Trade of the Colony	400,000
	Railway from Van Reenen's Pass to Harrismith	260,000
	Harbour Works and Public Works for 1890-91, for which there are no Loan Funds	250,000
	Such other Railway, Harbour, and other Public Works as may hereafter be authorised in terms of Clause 7 of this Law	890,000
	Total	£2,000,000

Law No. 1, 1891.

"To amend the 'Natal Loan Law, 1890.'"

[5th June, 1891.]

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

Repeal of Sec. 2
Law 29, 1890.

1. Section 2 of Law No. 29, 1890, entitled "Law to raise a loan for the construction, equipment, and maintenance of certain Railway Extensions, for the continuance of the Harbour Works at the Port of Natal, and for certain other public works," is hereby repealed, and in lieu thereof it is enacted as follows:—

Enactment in
lieu thereof.

The interest on the principal money secured by any debenture raised under this Law in this Colony shall be payable either in England at the office of the Crown Agents in London, or at the office of the Treasurer in Natal.

Law No. 7, 1893.

"To provide for raising Loans within the Colony for the Public Service."

[23rd June, 1893.]

WHEREAS it is desirable to empower the Governor in Council from time to time to raise Loans within this Colony, for the Public Service thereof:

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

Loans authorised by any Law may be raised under this Law.

1. It shall be lawful for the Governor, whenever he desires to raise any sum or sums of money, being the whole or any portion of any sum which he may have been, or shall hereafter be, authorised to raise, by way of Loan, by any Law which may have been or at any time may be passed, and whether such Law provides that he shall raise the same by the issue of Debentures or otherwise, to raise the same or any part thereof by the creation and issue of Debentures under the provisions of this Law.

Loans charged upon general revenue and assets.

2. The principal moneys and interest of all sums borrowed under this Law shall be and are hereby charged upon, and made payable out of, the General Revenue and Assets of the Colony.

3. The Debentures shall be issued in this Colony upon the best and most favourable terms that can be obtained, and shall be for sums of not less than £50, or any multiple of £50, and shall bear interest at a rate not exceeding 4 per centum per annum payable half-yearly. **Law 7, 1893.**
Issue of Debentures.
4. Every Debenture shall be signed by the Colonial Secretary and the Treasurer of Natal. **Signature.**
5. Every Debenture shall, before being issued, be registered in a Register Book to be kept for that purpose in the Treasury. **Registration.**
6. There shall be attached to every Debenture, Coupons for the payment of the interest to become due in each half year upon the principal sum secured by the Debenture. **Interest coupons.**
- The Coupons shall be sufficient in number to provide for the payment of the interest, either during the whole period for which the Debenture has to run or for such limited period as the Governor may determine.
7. The Debentures and the Coupons thereto may be in such form as the Governor may direct or approve. **Form of Debentures and coupons.**
8. Every Debenture and Coupon and the right to receive the principal and the interest secured or represented thereby shall be transferable by delivery. **Transfer.**
9. The interest upon the principal secured by each Debenture shall run from the day named in that behalf in the Debenture, and shall be paid half-yearly on the days named in that behalf in the Debenture, at the office of the Treasurer. **Interest.**
10. The bearer of any such Debenture may, however, on delivery up to the Treasurer of such Debenture and of all unpaid Coupons belonging thereto, require to be registered in the Books kept by the Treasurer as a holder of such an amount of principal as is represented by such Debenture, and shall receive in exchange a Registered Debenture for a similar amount. **Registered Debentures.**
- Such Registered Debenture shall bear the same number, and shall be subject to the same conditions of redemption, as the Debenture to bearer for which it has been exchanged.
11. The interest on such Registered Debentures shall be payable by Dividend Warrants in accordance with such regulations as the Governor may from time to time authorise. **Dividend Warrants.**
12. Any Registered Debenture issued under this Law shall be transferable only by endorsement by the Treasurer acting under the authority of a deed of Transfer according to the form in the Schedule (A) to this Law or to the like effect, and such deed, when duly executed by all parties, shall be delivered to the Treasurer and kept by him, and a memorial thereof shall be entered in the Register. The Registered Debenture shall also be delivered to the Treasurer to be endorsed by him according to the form in the Schedule (B) to this Law. **Transfer of Registered Debentures.**
13. The holder of any such Registered Debenture may, on surrendering the same to the Treasurer, require the Treasurer to deliver to him a Debenture to bearer equivalent in nominal value to the Registered Debenture surrendered, and bearing the same number as such Registered Debenture, and similar in every respect to and with the like privileges and subject to the like conditions as the Debentures to bearer authorised to be created under this Law, and thereupon the Registered Debenture so surrendered shall be cancelled and the owner's name erased from the Register of the holders of Registered Debentures, and all the estate and interest of any such person shall absolutely cease and determine. **Exchange of Registered Debentures for Debentures to Bearer.**

Law 7, 1893.

Notice of
Trusts.

Fee on Ex-
change.

Appropriation
and payment of
interest.

Redemption
Fund.

Formation of
Sinking Fund.

Application of
funds for re-
demption of
Debentures.

Debentures how
to be redeemed.

Treasurer to fix
a date for draw-
ing by lot of
Debentures to
be redeemed.

Drawing to be
advertised.

14. No notice of any trust in respect of any Debenture, Registered Debenture, or Coupon issued under this Law, shall be receivable by the Treasurer.

15. On the issue of any Registered Debenture, in lieu of a Debenture to bearer, or of any Debenture to bearer in lieu of a Registered Debenture, a fee not exceeding 5s. shall be paid to the Treasurer.

16. So long as any of the Debentures of a particular Issue remain outstanding, the Governor shall in each half year ending with the day on which the interest on the Debentures falls due, appropriate out of the General Revenue and Assets of the Colony a sum equal to one half year's interest on the total original nominal amount of such Issue, including any which may have been redeemed, and the Treasurer shall pay thereout the then current half year's interest on the then outstanding Debentures on the day when it falls due, and the balance shall be applied by the Treasurer under the direction of the Governor towards the formation of a fund applicable in manner hereinafter provided to the redemption of the Debentures of the respective Issues.

17. After the date specified in the Law authorising an Issue of Debentures as that on which the contribution to the Sinking Fund shall commence, the Governor shall further, in each half year ending as aforesaid, appropriate out of the Revenue and Assets of this Colony, an additional sum, equal to such percentage on the total original nominal amount of such Issue of Debentures, including any which may have been redeemed, as shall be specified in the said Law, and such sum shall be applied by the Treasurer, under the direction of the Governor, towards the formation of the fund hereinbefore mentioned, applicable to the redemption of the Debentures of the respective Issues.

18. The funds applicable under the provisions of this Law to the redemption of Debentures shall be applied in the first place in payment of all expenses of or incidental to the redemption of Debentures, including the charges of the Notary Public attending at any drawing thereof, and the cost and expenses of all notices required by this Law to be given, and in the next place subject to the aforesaid payments in repayment of the principal moneys for the time being secured by the Debentures.

19. The Debentures shall at the option of the Treasurer, subject to the direction of the Governor, be redeemed either by purchase in the open market or by annual drawings, and subject to the aforesaid payments, the sums to be applied annually to such redemption shall correspond as nearly as may be to, but not exceed, the amount applicable therein, under the provisions of this Law, to the redemption of Debentures.

20. So long as any of the Debentures of a particular Issue remain outstanding and unsatisfied, the Treasurer, if so directed by the Governor, shall in every year after the day on which the contribution to the Sinking Fund of such Issue is authorised to commence, unless the whole of the money applicable in that year to the redemption of Debentures has been applied in the purchase thereof, appoint a day in that year for the drawing by lot of the Debentures to be redeemed.

21. If a day is appointed for drawing, the Treasurer shall give by advertisement in the "NATAL GOVERNMENT GAZETTE" and public Press not less than fifteen days' previous notice, specifying the day on which, and the hour and place at which, the drawing will take place, and the nominal amount of the Debentures to be redeemed at that drawing.

22. On the day and at the hour and place so specified the Treasurer shall hold a meeting (at which the holder of any Debenture may, if he think fit, be present), and shall then in the presence of such Debenture holders (if any) as may attend, and of a Notary Public, draw by lot, out of the whole number of Debentures for the time being outstanding, Debentures of the specified nominal amount. Law 7, 1893.
Mode of conducting drawing.

23. The Treasurer shall thereupon declare the distinguishing numbers of the Debentures drawn for redemption, and shall as soon as may be, by advertisement in the "NATAL GOVERNMENT GAZETTE" and public Press, specify those numbers and appoint a day (not being later as to each Debenture than the day on which the then current half year's interest thereon is payable) on which the principal moneys secured by the Debentures so distinguished will be repaid. Advertisement of result of drawing.

24. On the day so appointed the Treasurer shall on demand pay to the holders of the Debentures drawn for repayment the principal moneys secured by those Debentures, with all interest payable thereon up to that day. Redemption of drawn Debentures.

25. From and after the day appointed for the repayment of any Debenture all claim of the holder of such Debenture for interest on the principal moneys secured thereby shall cease and determine, whether payment of the principal have or have not been demanded. Interest to cease from date fixed for redemption.

26. Upon the repayment of the principal moneys secured by any Debenture, the Debenture with all the Coupons thereunto belonging shall be delivered up to the Treasurer to be by him cancelled. Cancellation of Debentures and Coupons.

Any Debenture redeemed by purchase shall likewise be so cancelled.

27. No money applied in redemption of a Debenture shall be re-borrowed, and no Debenture shall be issued in respect of or in substitution for any cancelled Debenture. Money not to be re-borrowed, nor Debenture issued in lieu of cancelled Debenture.

28. This Law may be known as "The Local Loans Law, 1893." Short title.

SCHEDULE A.

Transfer Deed.

NATAL GOVERNMENT PER CENT. REGISTERED DEBENTURES. Schedules.

I or We, in consideration
of the sum of paid to by
of do hereby transfer to the said his or their
executors, administrators, and assigns, the undermentioned Natal
Government Registered Debentures, bearing date the day of
Created under Law No. of

viz. :—

Nos.....	of £	each £
„		
„		
„		
„		
		£.....

for securing the principal sum of Sterling, with
interest thereon, after the rate of £ per centum per annum,
and all right, interest, and property, in and to the money thereby
secured.

In witness whereof have hereunto set
hand and seal, this day of, in the
year of our Lord, One Thousand Eight Hundred and

Law 7, 1893. Signed, sealed, and delivered by the above mentioned

Schedules.

In the presence of
 Witness' Name, Address, }
 and Description. }
 Transfer No.
 When left
 By whom left for Registration

SCHEDULE B.

Transferred, to of in
 accordance with the terms of Transfer Deed No.
 Dated this day of 18
 Registered.....
 Treasurer.

Law No. 11, 1893.

"To authorise the Governor in Council to raise a Loan not exceeding Fifty Thousand Pounds, under the conditions and terms of 'The Local Loans Law, 1893.'"

[23rd June, 1893.]

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

Short title.

1. This Law may be cited as "The Public Works Loan Law, 1893."

Loan of £50,000 authorised in terms of the Local Loans Law, 1893.

2. It shall be lawful for the Governor in Council to borrow a sum not exceeding Fifty Thousand Pounds under the conditions and terms prescribed in "The Local Loans Law, 1893." Such sum so authorised to be borrowed shall be expended on the works and for the purposes specified, and to the extent and in the proportion limited by the Schedule hereto annexed marked A.

Sinking fund

3. Contributions to the Sinking Fund for the purpose of paying off the Loan by this Law authorised shall commence from the date of issue of Debentures under this Law, and shall be at the rate of Two Pounds Ten Shillings per cent. per annum on the total nominal amount of the Debentures issued.

Commencement

4. This Law shall come into operation from and after the publication of the Governor's assent thereto in the "NATAL GOVERNMENT GAZETTE" (A).

SCHEDULE A.

Schedules.

School Buildings:								£
Stanger	...	...	...	...	...	...	...	1,500
Umzinto	...	...	...	...	...	...	...	1,500
Ixopo	...	...	...	...	...	...	...	2,500
Addington	...	...	...	...	...	...	...	2,000

(A) June 27, 1893.

Bridge over the Lower Umkomanzi (subject to the necessary survey being first taken to fix the point at which such bridge shall be erected, with a view to its ultimate use for Railway purposes)	£20,000	Law 11, 1893.
Telegraph Extensions	4,200	
Umzimkulu Harbour Works	1,500	
Court Room, Gaol, and House, Hunger's Poort	2,500	
Court Room, Gaol, and House, New Hanover	2,500	
Court Room, Gaol, and House, Weenen	2,500	
Court Room, House, and Lock-up, Indwedwe	1,500	
House, Lower Umzimkulu	1,000	
House, Tugela Valley	800	
Police Lock-up and Quarters, Bellair and Sydenham	500	
Construction of new Road between St. Faith's and a point south of the Umzimkulu, in the direction of Harding: Provided that such road can be satisfactorily made for the amount named	3,000	
Possible Expenses of raising Loan	2,500	

Act No. 7, 1898.

"To raise a loan for the construction and equipment of certain Railway Extensions, for the continuation and construction of Works at the Port of Port Natal, and for certain other Public Works."

[6th June, 1898.]

WHEREAS it is expedient to raise a loan of Two Million Pounds Sterling (£2,000,000), to be applied for the construction and equipment of certain Railway Extensions, and for the continuation and extension of Works at the Port of Port Natal, and for the construction of certain other Public Works which have already been, or may hereafter be authorised by the Parliament of Natal, and for the repayment of a portion of the moneys expended, in anticipation of a loan, in the construction of certain Railways:

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:—

1. The Governor may borrow the sum of Two Million Pounds Sterling (£2,000,000), in accordance with the provisions of "The General Loan Law, 1882," and the amount so raised shall be applied to the following purposes as set forth in the Schedule of this Act, and for no other, that is to say:—

Loan of £2,000,000 authorised.

- (a) For the construction and equipment of certain Railway Extensions;
- (b) For the continuation and construction of Works at the Port of Port Natal;
- (c) For the construction of certain Railway, Harbour, and other Public Works, which have already been, or may hereafter be, authorised by the Parliament of Natal; but subject to the provisions contained in Section 4;
- (d) For the repayment of a portion of the moneys which have already been advanced out of general revenue and expended upon the construction of the Bluff Railway, the Richmond Railway Extension, and portions of the Umzinto and Greytown Railway Extensions.

Application of moneys.

Act 7, 1898.

Authority to borrow money in anticipation of the principal loan.

2. The Governor in Council may borrow from time to time, in anticipation of the raising of any portion of the loan of Two Million Pounds hereby authorised, and for any of the purposes by this Act contemplated, any sum or sums not exceeding at any one time in the whole the sum of One Million Pounds Sterling, in such manner as may be most convenient for the public service, and shall repay the principal moneys so borrowed out of the moneys to be raised under the provisions of this Act.

The raising of the said sum of One Million Pounds, or of any part thereof, shall not "pro tanto" exhaust the borrowing powers conferred by this Act.

The interest upon any sum borrowed under the provisions of 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 by this Act authorised.

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.

Reservation as to expending the £500,000 mentioned in Schedule.

4. The sum of Five Hundred Thousand Pounds Sterling (£500,000) mentioned in the schedule of this Act shall not be spent except in pursuance of any Act or Acts hereafter to be passed appropriating the said sum, or any portion or portions of the said sum, to specified works (A).

Reservation as to expenditure of balances.

5. Should the sums of £441,000 and £200,000 specified in paragraphs (a) and (b) under the head of Railways in the Schedule of this Act be more than sufficient for the purposes described in the said paragraphs, any sums in excess of the amounts so required shall be spent only in pursuance of any Act or Acts hereafter to be passed appropriating the said sums to specified works.

Substitution of Agent-General for Crown Agents.

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 the Colony of Natal.

Short title.

7. This Act may be cited as "The Natal Loan Act, 1898."

SCHEDULE.

Schedule.

RAILWAYS :

(a) Greytown Railway, Dundee-Buffalo Railway, Port Shepstone Railway	£441,000
(b) Repayment of Moneys already advanced for the construction of the Bluff, Richmond, Umzinto, and Greytown Railways, a sum not exceeding	£200,000
(c) Additional Rolling Stock	£154,000
Additional Works in connection with open lines of Railway	£156,000
	£310,000
	£951,000

HARBOUR WORKS AT THE PORT OF PORT NATAL :

Extension of North Pier, Graving Dock, Reclamation of Land, Extension of Wharves, and other Works ...	£386,000
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(A) See Act 38, 1898, post, and Act 2, 1899, tit. "RAILWAYS."

PUBLIC WORKS THROUGHOUT THE COLONY	£163,000	Act 7, 1898.
On account of the contemplated line of Railway to connect Natal with the Cape Colony, and such other Railway, Harbour, and other Public Works as may be hereafter authorised in terms of Section 4 of this Act	...	...	£500,000	
			£2,000,000	

Act No. 38, 1898.

“To provide for the erection of Buildings for the Legislative Council of Natal.”

[15th August, 1898.]

WHEREAS it is expedient and necessary that Buildings should forthwith be provided for the accommodation of the Legislative Council of Natal:

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:—

1. There shall be appropriated out of the sum of £500,000, mentioned in Section 4 of Act No. 7, 1898, a sum not exceeding £20,000 for the purpose of providing Land and Buildings at Pietermaritzburg for the use of the Legislative Council of Natal.

Act No. 9, 1899. (a)

“To declare certain moneys advanced from the General Revenue of the Colony in anticipation of the raising of loans to be a charge upon the General Revenue, and not repayable from loan funds.”

[3rd July, 1899.]

WHEREAS certain sums of money have from time to time been advanced from the Consolidated Revenue of the Colony for public purposes under authority of Acts of Supply, with the intent that the amounts so advanced should at some future time be repaid to the General Revenue out of funds to be raised by loans authorised by Law:

AND WHEREAS it is expedient that certain of such sums hereinafter more fully referred to, and amounting to the sum of £1,590,067 3s. 3d., should remain as a permanent charge against the Revenue in place of being repayable from loan funds:

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:—

1. The sum of One Million Five Hundred and Ninety Thousand and Sixty-seven Pounds Three Shillings and Threepence Sterling (£1,590,067 3s. 3d.), heretofore advanced from the Consolidated Revenue of this Colony, and paid for the purposes and according to the amounts respectively set forth in the schedule of this Act as and by way of advances repayable from loans to be authorised by Law, shall be deemed to be and to have been a charge upon the Consolidated

Certain monies to be a charge upon the General Revenue.

LOANS.

Act 9, 1899. Revenue, and shall be so regarded in the accounts of the Colonial Treasurer, and shall not be repayable out of any moneys received or which may hereafter be received by loan.

SCHEDULE.

Public Works...	...	...	...	...	£1,083,284	7	10
Harbour Works	...	...	...	...	267,216	17	2
Railway from Isipingo to Park Rynie	...	...	...	...	73,291	8	10
Railway from Park Rynie to Port Shepstone	...	...	...	...	3,651	15	0
Richmond Railway	...	...	...	...	52,367	6	8
Bluff Railway	...	...	...	...	19,419	9	11
Dundee-Buffalo Railway	...	...	...	...	1,791	10	11
Grevtown Railway	...	...	...	...	89,044	6	11
					£1,590,067	3	3

LOCAL BOARDS.

[See "TOWNSHIPS."]

LOCUSTS.

[LANDS IMPROVEMENT, &c."]

LORD'S DAY OBSERVANCE

^{44/106}
[See "SUNDAY."]

LOTTERIES.

[See "GAMBLING."]

LUNATICS.

LUNATICS.

Law No. 1, 1868.

“To make provision for the safe custody of persons dangerously insane, and for the care and custody of persons of unsound mind.”

[16th September, 1868.]

WHEREAS it is expedient to make provision for the safe custody of, and the prevention of crimes being committed by, persons dangerously insane, and also for the care and maintenance of persons who are insane, but not dangerously so :

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows :—

1. If any person shall be discovered and apprehended under circumstances denoting derangement of mind, and a purpose of committing suicide, or having committed, or having any intention to commit any crime or offence, for which, if committed for trial, such person would be liable to be indicted, it shall be lawful for any Resident Magistrate, before whom such person may be brought, to call to his assistance any two medical practitioners (one of whom shall, if practicable, be the District Surgeon) ; and, if upon view and examination of the said person so apprehended, and upon proof upon oath by the two medical practitioners to the effect, that in their opinion such person is a dangerous lunatic (A), or a dangerous idiot, and, on any other proof, the said magistrate shall be satisfied that such person is a dangerous lunatic, or a dangerous idiot, then it shall be lawful for such magistrate, by warrant under his hand, to commit such person to some gaol or public hospital, within the said Colony, there to be kept in strict custody, until such person shall be discharged by order of one of the judges of the Supreme Court, or shall be removed to some public lunatic asylum by order of the Lieutenant Governor for the time being, as hereinafter provided. Provided, every such person so detained in such gaol or public hospital, shall have the liberty and privilege of seeing his friends and legal advisers at all reasonable times.

Magistrates may commit dangerous lunatics to gaol or hospital, on evidence by two medical practitioners :

until discharged by Judge's order, or removed to asylum.

Proviso as to seeing friends and legal advisers.

2. The Lieutenant Governor may direct, by warrant under the hand of the Colonial Secretary, that any person who may be detained in custody in any gaol or hospital, by virtue of any such warrant as aforesaid, or any person who may be in any prison or place of confinement under any sentence of death, transportation, or imprisonment, or under any warrant on default of surety to keep the peace, or to answer any criminal charge, or in consequence of any conviction, or order of any Resident Magistrate, or under any other than civil process of the Supreme or any Circuit Court, and in respect of whom it shall be certified by two medical practitioners that such person is insane, shall be removed to such public lunatic asylum as the Lieutenant Governor shall, from time to time, appoint ; and every such person so removed, shall remain under confinement in such asylum until it shall be duly certified to the Lieutenant Governor, by two medical practitioners, that such person has become of sound

Persons confined under such warrant, or under criminal charges, may be removed to lunatic asylum by order of Governor ;

(A) Statement made by medical man as to a person's mental condition as required by this sec., though it be er-

roneous, will be privileged if made bona fide. See judgment of Wragg, J., in *Tait v. Schulz*, 7 N.L.R. 48.

Law 1, 1868.

and remain there until it be certified to Governor by two medical practitioners that such person has become sane.

Persons committed for trial, and found to be insane, may be removed to lunatic asylum by order of Governor,—

until trial.

Proviso as to seeing friends, &c.

When accused person has been acquitted by jury on ground of insanity, the Court shall order such person to be confined until the pleasure of the Governor be known.

Governor may order safe custody of such person.

Any two medical practitioners present at examination may certify that person examined is not insane ;

and Governor may ordain his liberation.

On application of relatives, or guardian, Governor may order lunatic to be confined.

mind ; whereupon, the Lieutenant Governor is hereby authorised and required, if such person shall remain subject to be continued in custody, to issue his warrant to the keeper or other person having care of any such asylum, directing that such person be remitted to the prison or other place of confinement from which he shall have been taken ; or if the period of imprisonment or custody of such person shall have expired, or if such person shall not be under any sentence of imprisonment, that such person shall be discharged.

3. If it shall be certified to the Lieutenant Governor, by two medical practitioners, that any person committed for trial for any crime or offence is insane, or an idiot, the Lieutenant Governor may, by warrant under the hand of the Colonial Secretary, order that such person shall be removed to such lunatic asylum as he shall appoint (unless in the meantime admitted to bail by some legal authority), until the criminal sessions of the Supreme Court, or of any Circuit Court, at which such person shall be brought to trial, or indicted according to the due course of law, and that such person shall then be remitted to the custody of the keeper or governor of the gaol, or other person, in whose custody such person may have been, under the terms of the original committal, in order to his being indicted and tried for such crime or offence, or otherwise disposed of according to law. Provided, every such person while so detained in such lunatic asylum, shall have the same liberty and privilege of seeing his friends and legal advisers at all reasonable times, which he would have had in the gaol or other prison from which he may have been removed (A).

4. In all cases in which it shall be given in evidence upon the trial of any person charged with any crime or offence, that such person was insane at the time of the commission of such crime or offence, and such person shall be acquitted, the jury shall be required to find, specially, whether such person was insane at the time of committing such crime or offence, and to declare whether such person was acquitted by them on account of such insanity, and if they shall find that such person was insane at the time of committing such offence, the court, before whom such trial shall be had, shall order such person to be kept in strict custody in such gaol or place of confinement, and in such manner as to the court shall seem fit, until the pleasure of the Lieutenant Governor shall be known ; and the Lieutenant Governor may thereupon give such order for the safe custody of such person, in such place and in such manner as to the Lieutenant Governor shall seem fit.

5. If it shall appear to any two medical practitioners, present at an examination of any person in custody, that such person is not an insane person, or a dangerous idiot, and that such person may be suffered to go at large with safety, it shall be lawful for such medical practitioners, and they are hereby required, to give a certificate to that effect, signed by them, to the keeper of the asylum or gaol in which such person shall be in custody, and such keeper is hereby required to transmit the same forthwith to the Lieutenant Governor, who shall thereupon order the liberation of such person from custody (B), unless he shall be detained therein for some other cause by due process of law.

6. The Lieutenant Governor may, on the application of one or more of the relatives or guardians of any insane person (which

(A) See Ord. 18, 1845, s. 43, and Law 16, 1861, s. 4, tit. CRIMINAL LAW, I, as to the terms on which access may be permitted to friends and legal advisers.

(B) In *In re Napier* (17 N.L.R. 27) Mason, J., was not prepared to say that where the liberty of the subject is concerned the Court could not carry out the duty imposed on the Governor.

application shall be sanctioned in writing by one of the Judges of the Supreme Court, or by a Resident Magistrate), and on receiving the certificate of two medical practitioners that they have examined and found such person to be of unsound mind, order and direct, if he think proper so to do, that such person be received into, and kept in custody in, such lunatic asylum, as he may from time to time appoint.

Law 1, 1868.

7. When it shall appear to the Judge or Resident Magistrate to whom any such application shall be presented, that an insane person has no relative or guardian within the Colony, or none accessible without inconvenient delay, any person or society under whose protection or care such insane person shall actually be for the time being, shall, for the purposes of the preceding section, be deemed the guardian of such insane person; and it shall be lawful for such Judge or Resident Magistrate to cause the applicant and any other person, in his discretion, to be examined as to the facts in every case on oath, and any wilfully false answer by any such applicant or person thereupon given, shall be deemed perjury, and punishable as such.

If lunatic has no relative or guardian easily accessible, any person under whose care he is shall be deemed a guardian.

8. When any insane person shall be committed to any gaol or hospital as aforesaid, for the purpose of being received into such lunatic asylum as the Lieutenant Governor may appoint, the removal to and from, and the maintenance in such asylum, of such insane person, shall, until further provision be made therefor, be defrayed out of the colonial revenues (A).

Maintenance of lunatics confined.

9. Provided, it shall be lawful for the keeper of any such asylum, in all cases where any lunatic or idiot shall be possessed of sufficient means to defray the expense of his maintenance in any such asylum, to agree with any relative, guardian, or friend of such lunatic or idiot, for his maintenance whilst detained therein; and such relative, guardian, or friend, shall be, and is hereby empowered, to reimburse himself all necessary sums expended in such maintenance out of any funds or property belonging to such lunatic or idiot, which funds or property are hereby made chargeable therewith.

When lunatic has sufficient means, his maintenance shall be charged upon his estate.

10. The Lieutenant Governor may appoint some fit and proper person or persons, not exceeding five in number, to be the visitor or visitors of each lunatic asylum within the Colony, and may such visitor or visitors remove, and appoint another, or others, in his or their stead; and some one of such visitors shall be required to visit each such lunatic asylum at least once every day, unless prevented by illness or other sufficient cause, and shall, from time to time, make such reports to the Colonial Secretary as may be required by the order of the Lieutenant Governor.

Visitors for lunatic asylums may be appointed by Governor.

Asylums to be visited every day.

11. If the Supreme Court, or any Judge thereof, presiding at any Circuit Court, or sitting in Chambers, shall receive any information upon oath, or otherwise shall have any reason or cause to suspect, that any person of sound mind is confined within any lunatic asylum, such Court or Judge shall have full power and authority to cause the keeper of such asylum, by any warrant or order directed to such keeper, to bring such confined person before such Court or Judge for examination, at a time to be specified in such warrant or order, and if upon the examination of such confined person, or of any medical or other witness, who may be called to testify as to the supposed sanity or insanity of such confined person, it shall appear to the satisfaction of such Court or Judge, that such confined person is of sound mind, it shall be thereupon lawful for such Court or Judge, upon the oath or affirmation of such witness, and such Court or Judge is hereby required to direct such confined person to be immediately discharged

Supreme Court, or Judge thereof, may order discharge of sane person confined as a lunatic.

(A) See Law 8, 1891, post.

Law 1, 1868. from the custody of the keeper of such asylum, unless he shall be confined therein for some other cause by due process of law.

On application of relative, Governor may order discharge of lunatic.
 Recognition for good behaviour of dangerous lunatic must be given.
 Provision for re-confinement of lunatic, if recognizance broken.
 Limitation of actions.

12. If any application shall be made to the Lieutenant Governor by any relative or friend of any person still laboring under insanity, and in confinement by virtue of this Law, and such relative or friend shall be willing to undertake the charge of, and to support, such insane person, the Lieutenant Governor may, if he shall think fit, order the discharge of such insane person from such asylum: Provided no person who shall have been committed to such asylum as a dangerous lunatic, or dangerous idiot, shall be so discharged unless his friend or relative shall enter into sufficient recognizance for the peaceable behaviour of such dangerous lunatic or idiot before a Resident Magistrate, or one of the Judges of the Supreme Court: Provided, further, if it shall at any time be shewn to the satisfaction of the Lieutenant Governor that any of the conditions of such recognizance shall have been broken, the Lieutenant Governor may issue a warrant directing that such dangerous lunatic or idiot shall be again confined in the asylum from which he shall have been so discharged, or such other place as to the Lieutenant Governor may seem fit.

13. No action shall lie against any person whatever, on account of any act, matter, or thing done or commanded by him, in carrying the provisions of this Law into effect, unless such action be commenced within three months after the cause of action or complaint shall have arisen; and if any person shall be sued on account of any act, matter, or thing, which he shall have so done, or commanded to be done, he may plead the general issue, and give the special matter in evidence.

Indemnity to persons concerned in confinement of lunatics previous to this Law.
 Lunatics confined at date of this Law, to be subject to its provisions.
 Indemnity to persons who have confined anyone on medical certificate, and in good faith previous to this Law.

14. All persons who may have subjected themselves to any penalty, action, or indictment, by promoting, ordering, or being in any way concerned in the care, charge, or custody of persons who may, before the time at which this Law shall take effect, have been committed to prison or put under confinement in any gaol or hospital by the authority of any magistrate or other judge, or of the Lieutenant Governor, as dangerous lunatics, or as having been charged with some crime or offence, shall be, and hereby are, indemnified, freed, and discharged from all penalties, actions, indictments, and liabilities which may have been incurred by reason of the confinement of such persons; and all such persons who at the date at which this Law shall take effect, shall be under such confinement, are hereby declared to be subject to the provisions of this Law, so far as the same may be applicable.

15. In all cases where any person shall, before the time at which this Law shall take effect, have been placed under restraint or confinement, in any public hospital or place of confinement, as insane, on the certificate or sworn testimony of a medical practitioner, given in good faith, no action, or other prosecution shall lie against any person, on account of such restraint or confinement, although such confined person may have become of sound mind.

Interpretation.
 16. In this Law "Resident Magistrate" shall include the Assistant Resident Magistrate, and also associated Justices of the Peace, holding any branch court, under Law No. 6, 1859 (A); "medical practitioner" shall mean any surgeon or physician, duly licensed to practice by virtue of any law at any time in force in this Colony, or registered under the medical laws in force in the United Kingdom of Great Britain and Ireland, and also any medical officer

(A) See now Act 22, 1896, tit. "COURTS (MAGISTRATES)."

of Her Majesty's land or sea forces, practising within this Colony; "lunatic asylum" shall include any hospital, or portion of any hospital, within the Colony, which may, from time to time, be appointed by the Lieutenant Governor for the custody of insane persons. Law 1, 1868.

17. This Law shall take effect from the promulgation thereof in the "GOVERNMENT GAZETTE"; and may be cited as "the Custody of Lunatics Law, 1868" (A). Commencement
Short title.

Law No. 8, 1891.

"To amend Law No. 1, 1868, entitled 'Law to make provision for the safe custody of persons dangerously insane, and for the care and custody of persons of unsound mind.'"

[16th July, 1891.]

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

1. Nothing in the Law No. 1, 1868, contained shall be deemed to take away, or to have taken away, any claim which would otherwise be maintainable on behalf of the Colonial Government in respect of the cost of maintaining any person in an asylum. Construction of
Law 1, 1868, as
regards claim of
Government.

2. Where no special agreement shall have been made as in the Ninth Section of the said Law is provided, the actual cost of the maintenance of any lunatic in an asylum shall be a charge against the estate of the lunatic, and if the estate be not sufficient for the maintenance of such lunatic in the asylum, or if there be no estate, then any person who would, under the ordinary Law of this Colony (B), be liable for the maintenance of the lunatic, shall be liable and required to pay the actual cost, as certified by the chief officer in charge of the asylum, of the maintenance of such lunatic in the asylum: Provided, that such liability shall not, unless otherwise agreed, exceed in any case the rate of Fifty-two Pounds per annum: And provided further, that when any person shall be sued upon a claim for such maintenance, the Court shall take into consideration the competence of the defendant, and may in its discretion adjudge the payment of the whole cost or of a portion thereof only. Liability for
cost of main-
tenance of
lunatic in
asylum.

3. This Law, and the Law No. 1, 1868, shall be read and construed together as one Law. This Law and
Law 1, 1868, to
be read as one.

Law No. 25, 1891.

"To amend and consolidate the Laws relating to the introduction of Indian Immigrants into the Colony of Natal, and to the regulation and government of such Indian Immigrants."

[3rd September, 1891.]

58. The cost of removal to and from, and the maintenance in, any lunatic asylum of this Colony of any Indian Immigrant, indentured or free, confined therein as an insane person, under the Cost of removal
and main-
tenance of
insane Indian
Immigrant to
be borne by
Indian Immi-
gration Trust
Board.

(A) September 22, 1868.

(B) A statement of the Common Law of the Colony on this subject is given in

the judgments in *Colonial Government v. Meldrum*, 11 N.L.R. 139.

Law 25, 1891. provisions of "The Custody of Lunatics Law, 1868," shall be defrayed by the Indian Immigration Trust Board, the funds of which Board are made chargeable with such cost (A).

LUNGSICKNESS.

[See "ANIMALS (DISEASES)."]

(A) See this Law in full, under tit. "IMMIGRATION (INDIAN)."

MARKETS.

1

MAGISTRATES.

[See "COURTS (MAGISTRATES)"; "JUSTICES OF THE PEACE."]

MANUFACTURES.

[See "INDUSTRIES (COLONIAL)."]

MARKETS.

[As to sales of diseased animals on public market see Act 30, 1897, ss. 15-21, and Act 40, 1898, tit. "ANIMALS (DISEASES)," and Act 27, 1898, tit. "HORSES." See also "MUNICIPAL CORPORATIONS."]

Ordinance No. 8, 1847.

"Ordinance for enabling the Lieutenant Governor of Natal to establish Markets within the said District."

[30th March, 1847.]

WHEREAS, it may be expedient to establish markets in certain villages, and other places, convenient for holding the same, within the District of Natal: Be it therefore enacted, by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council thereof, that it shall and may be lawful for the Lieutenant Governor of the said District, with the advice of the Executive Council thereof, by any proclamation, to be by him issued, from time to time, for that purpose, and posted upon, or affixed to, some public place in Pietermaritzburg, to establish a market at any village, or place, where the same shall appear to be required, and to fix the limits of the same, and the dues to be taken thereat, and to provide all necessary regulations for such markets, and such regulations to alter, and the said markets to abolish, when, and so often, as he shall deem expedient: Provided always, that no such market shall be established at, or in, any municipality; and that in case any village, or place, at or in which any such market shall be established, shall at any time afterwards become a municipality, then such market shall become, and be, "ipso facto," abolished.

Governor authorised to establish markets, by proclamation under certain conditions.

2. And be it enacted, that this Ordinance shall commence and take effect, from and after such date as shall be fixed, and appointed, for the commencement thereof, by any proclamation, to be by the Lieutenant Governor aforesaid, for that purpose issued, and posted, or affixed, in manner and form as hereinbefore provided, in regard to the proclamation in the first section of this Ordinance mentioned (A).

Commencement

MARKING OF MERCHANDISE.

[See "TRADE MARKS (COUNTERFEITING)."]

(A) No advice of confirmation, or otherwise, by Home Government.

MARRIAGE.

[See "COMMUNITY OF GOODS"; "MARRIAGE (NATIVES)"
"MARRIAGES (REGISTRATION)," &c.]

Ordinance No. 17, 1846.

"Ordinance to amend the Law regarding Marriages within the District of Natal."

[24th April, 1846.]

1. WHEREAS it is expedient, that the provisions of the Order of Her Majesty in Council, bearing date the 7th of September, 1838, amending the Marriage Laws of certain colonies, plantations, and possessions in the said Order mentioned, should, so far as they can be applied, be extended to the District of Natal: Be it therefore enacted, that any laws, customs, or usages heretofore in force in the said District, so far as the same are repugnant to, or inconsistent with, any of the provisions of this Ordinance, shall be repealed, and the same are hereby repealed accordingly.

Existing Marriage Laws, &c., at Natal, repealed.

2. And be it enacted, that all and singular the clauses and provisions of the said Order in Council of the 7th of September, 1838, (A), so far as the same can be applied to the said District of Natal, shall be of force and effect within the said District, precisely as if all the clauses and provisions thereof which can be so applied, were herein again set forth, as so many clauses and provisions of this Ordinance, and expressly applied to the said District; Provided always, that all and singular the clauses and provisions of the said Order in Council, which are hereinbefore constituted and declared to be clauses and provisions of this Ordinance, shall be taken and construed for the purpose of this Ordinance, as they would have been taken and construed in the said Order in Council, had the same, when originally issued, embraced or extended to the said District of Natal, as a distinct Colony, separate from the Colony of the Cape of Good Hope.

Provisions of Order in Council of 7th September, 1838, to have effect at Natal, as far as applicable.

3. And be it enacted, that this Ordinance shall commence and take effect from and after such date as shall be fixed and appointed for the commencement thereof, by any proclamation to be by the Lieutenant Governor of the District aforesaid, for that purpose issued, and posted upon, or affixed to, any public place in Pietermaritzburg (B).

Commencement

At the Court at Windsor, the Seventh day of September, 1838.

Present:—

The Queen's Most Excellent Majesty.

*The Lord Chancellor.
The Earl of Albemarle.
The Viscount Falkland.*

*The Viscount Palmerston.
The Viscount Melbourne.
The Lord Glenelg.*

1. WHEREAS since the abolition of slavery throughout the British Colonies, plantations and possessions abroad, the marriage laws of the said Colonies, plantations and possessions have been found

(A) Vide infra.

(B) Confirmed, vide Proclamation, February 17, 1847.

inappropriate to the altered condition thereof and inadequate to the increased desire for lawful matrimony therein: And whereas it is expedient and necessary to amend the said marriage laws and to adapt the same to the altered state and condition of society in the said Colonies, plantations and possessions.

Ord. 17, 1846.

2. It is therefore hereby ordered by the Queen's Most Excellent Majesty, by and with the advice of her Privy Council, that from and after the taking effect of this order, it shall be lawful for any minister of the Christian religion, ordained or otherwise, set apart to the ministry of the Christian religion according to the usage of the persuasion to which he may belong, to publish within the Colonies of British Guiana, Trinidad, St. Lucia, the Cape of Good Hope, and Mauritius, or any of them, banns of marriage between persons desirous of being joined together in matrimony, and such publication shall be made, in an audible manner, sometime during public divine service, on a Sunday, in the face of the congregation before whom such minister shall officiate, in the parish in which both or one of the parties to be married shall dwell, and shall contain the christian and other name and surname and place of abode of each of the said parties, and shall be so published by some such minister for three Sundays preceding the solemnization of the marriage—during the morning service, if there be service in the morning—or if there shall be no morning service, then during the evening service.

Ministers may publish banns according to the usage of their persuasion, for three Sundays before solemnization of marriage, in their own Churches, in parish in which both or one of the parties reside.

3. And if the parties to be married shall dwell in different parishes, the banns shall be published in like manner in both such parishes; and if the said parties shall be of different persuasions, the banns shall be published in like manner before each of the congregations to which the said parties may respectively belong, whether both the said congregations shall assemble in the said parish or not.

Publication of banns when parties live in different parishes or are of different persuasions.

4. And where one or both of the parties shall dwell in any extra-parochial place, then, if there be a congregation of the persuasion to which any such party shall belong assembling for public divine worship as aforesaid, in such extra-parochial place, the banns of the party or parties dwelling in such extra-parochial place shall be published in manner aforesaid in such extra-parochial place.

Publication of banns in extra-parochial place.

5. And if there shall be no such congregation in such extra-parochial place, then the banns of such of the parties to be married as shall dwell in such extra-parochial place shall be published in manner aforesaid in some parish next adjoining to such extra-parochial place.

How published when there is no congregation in extra-parochial place to which either party belongs.

6. And in cases where the banns shall have been published in different places, the officiating minister at either of the said places shall, on the request of both or either of the parties whose banns shall have been published as aforesaid, give to the party requiring the same a certificate of the banns having been duly published in the place of which he is an officiating minister, and on the production of such certificate to the officiating minister of the other place where the banns were published, or of such certificates to any other such minister as aforesaid, in the parish or extra-parochial place to which one of the parties shall belong, it shall be lawful for such minister where the banns were published, on receiving such certificate from such other minister where the banns were published, or for such minister as aforesaid, to whom the certificates of such ministers of both places where the banns were published shall be produced, on receipt of such certificate or certificates, as the case may be, to solemnize matrimony between the said parties, according to such form and ceremony as shall be in use, or be adopted, by the persuasion to which the minister solemnizing such marriage shall belong.

On production of certificate of publication of banns, any minister may solemnize matrimony according to the form of his persuasion.

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Declaration to be made when the ceremony used is not that of the Church of England.

7. Provided, that whenever the form and ceremony used shall be other than that of the United Church of England and Ireland, each of the parties shall, in some part of the ceremony, make the following declaration (A):—

“I do solemnly declare, that I know not of any lawful impediment why I, A. B., may not be joined in matrimony to C. D., here present.” And each of the parties shall say to the other—

“I call upon these persons here present to witness that I, A. B., do take C. D. to be my lawful wedded wife (or husband).”

Particulars to be furnished to minister two days before time of publication of banns.

8. And it is hereby further ordered, that no minister shall be obliged to publish banns between any persons whomsoever, unless the persons to be married shall, two days at least before the time required for the first publication of such banns respectively, deliver, or cause to be delivered to such minister, a notice of their true Christian and other names and surnames, and a description of their place, or respective places of abode, in such parish or extra-parochial place as aforesaid, and of the time during which they have dwelt in such place or places (B).

Marriage cannot be celebrated after three months from last publication of banns.

9. And that it shall not be lawful for any minister to solemnize any marriage after three calendar months from the last publication of banns of such marriage; and in all cases where three calendar months shall have elapsed without the marriage having been solemnized, the publication of such banns shall be void; and before the said parties can be married by banns, it shall be necessary to republish the banns anew, in manner and form aforesaid, as if no banns had ever been published between them.

Minister who has solemnized marriage of minor not punishable unless parents have forbidden the marriage.

10. (c) And be it further enacted, that no such minister as aforesaid who shall solemnize any marriage after due publication of banns as aforesaid, between persons, both or one of whom, not being a widow or widower, shall, at the time of such marriage, be under legal age, shall be answerable, or responsible, or liable, to any pain, penalty, or proceeding, for having solemnized such marriage without the consent of the parents or guardians or other person, if any, whose consent is required by law, unless such parents or guardians, or other person, or one of them, shall forbid the marriage, and give notice thereof to such minister before he has solemnized the same; and in case such marriage shall be forbidden as aforesaid, and such notice shall be given as aforesaid, the publication of the banns for such marriage shall be absolutely void (D).

License shall authorize solemnization in any place, and by any ministers who could have solemnized after publication of banns.

11. And it is hereby further ordered, that where, by any law in force or which may hereafter be in force, in any of the Colonies to which this order applies, by which licenses for marriage without the publication of banns may be granted or issued in any such Colony by the Governor thereof, or any other civil authority therein (E), it shall be lawful for the parties intending marriage, or either of them, to require that such license shall authorise the solemnization of the

(A) As to whether a translation of this form may be used where the parties do not speak English, see sec. 38, post.

(B) Cf. 4 Geo. IV. c. 76, s. 7.

(C) Cf. 4 Geo. IV. c. 76, sec. 8.

(D) Query whether marriage of minor, whose parents did not consent thereto, and which has not been consummated, is ipso jure void. See *Douton v. Doulton*, 5 N.L.R. 102. If one of two guardians objects, the marriage will be void (*In re McDuling*, 5 N.L.R. 320), and the Court

in such a case refused to validate the marriage where the guardian subsequently gave his consent (*In re McDuling and Brown*, 6 N.L.R. 88). But see also *Laney v. Laney*, 20 N.L.R. 94; also *Lee v. Donlon*, 5 N.L.R. 270.

As to marriage of Indian Immigrants under this Ord., being minors, see Law 25, 1891, s. 74, tit. “IMMIGRATION (INDIAN).”

(E) As to how the license may be signed, see Laws 2, 1876, and 7, 1889, post.

marriage, in respect of which such license is applied for, in any place where and by any minister, by whom such marriage could have been solemnized by virtue of this act, if banns thereof had been published as aforesaid.

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12. And whereas it may happen that, in some of the Colonies to which this order applies, or in some parts thereof respectively, there may not be any such ministers as aforesaid, or not a sufficient number of such ministers to afford convenient facilities for marriage, and it is expedient to provide for such cases: It is therefore further ordered, that in every such case, and whenever the same shall happen in any of the said Colonies, it shall be lawful for the Governor of such Colony to appoint, by writing under his hand and official seal, one or more such fit and proper person or persons as he shall, from time to time, deem necessary or expedient, to be called the marriage officer (A), to solemnize marriages within such part or parts of the Colony in which such appointment shall be made, as the Governor shall, from time to time direct; and it shall be lawful for the Governor, at any time and from time to time, to revoke and cancel any such appointment or appointments and to alter, vary, enlarge or contract the District or Districts in which any person so appointed shall have power or jurisdiction to celebrate marriage, for any cause which to him shall seem meet, and every such appointment shall specify the part or District within which the person thereby appointed shall have power and jurisdiction to celebrate marriage.

Governor may appoint marriage officers for districts within which they may celebrate marriages

13. And until some law shall be made, passed, allowed and promulgated for regulating marriages by persons so appointed, it shall be lawful for the Governor, and he is hereby required, to direct, declare and promulgate the manner by which the intention of parties to marry before any such marriage officer shall be made public.

Governor to direct manner of publication of intention of parties to marry before officer.

14. Provided always, that it shall not be lawful for any such marriage officer to solemnize marriage between persons, one or both of whom shall be under lawful age (unless in the case of a widow or widower) after such marriage shall be forbidden, and notice thereof given to him by any person having lawful authority to forbid the same.

Marriage of minors before officer.

15. Provided always, that in every marriage before any such marriage officer, not celebrated according to the form of the United Church of England and Ireland, the parties shall, in some part of the ceremony, respectively, make the declarations hereinbefore set forth as in the case of marriage by any such minister as aforesaid.

Where ceremony of Church of England not used, declaration to be used.

16. Provided also, that every such minister as aforesaid may, nevertheless, publish banns and celebrate marriage, under and by virtue of this Order, in any part or District within which any such marriage officer shall have power or jurisdiction to celebrate marriage, as fully as if no such marriage officer had ever been appointed.

Ministers may publish banns, and solemnize marriages, within Districts of officers.

17. And whereas it may happen that the parents or parent, guardians or guardian, of one or both of the parties to be married, may be "non compos mentis," or absent from the Colony, or otherwise incapable, in law or in fact, of consenting, or may be induced unreasonably and improperly to withhold his, her, or their consent to a proper marriage, or may be dead:—It is therefore hereby ordered, that in case any such parent or guardian, whose consent is necessary to a marriage, shall be "non compos mentis" or absent from the Colony, or otherwise incapable, as aforesaid, of consenting, or shall withhold his, her, or their consent to any marriage; or in

When consent of parents or guardians cannot be given parties may petition Chief Justice.

(A) See Law 19, 1881, post, regarding the appointment of Jewish and Mahomedan marriage officers.

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case there shall be no one capable of consenting, it shall be lawful for any person desirous of marriage, to whose marriage such consent is necessary, but cannot be given, or is withheld, to apply, by petition, to the Chief Civil Judge, or person officiating as such, for the time being, of the Colony, who is hereby empowered to proceed upon such petition in a summary way; and in case the marriage proposed shall, upon examination, appear to him to be proper, the said Chief Civil Judge, or person officiating as such, shall judicially declare, by his order, in writing, that such marriage is proper and may be solemnized forthwith; and every marriage duly solemnized in pursuance, or under the authority or direction of such order, shall be as good, valid, and effectual, to all intents and purposes whatsoever, as if such consent as aforesaid had been duly given thereto.

Evidence of certain matters not to be required or received in suits regarding validity of marriages.

18. And it is hereby further ordered, that after the solemnization of any marriage, under or by virtue of this act, it shall not be necessary, in support of such marriage, or in any action, suit or proceeding, when the same may come into question, to give any proof of the actual dwelling of the parties married, or of either of them, before the marriage, or that the banns were published, or that the marriage was solemnized in the place, and by a person where and by whom the same ought to have been published and solemnized respectively, nor shall any evidence be received to prove the contrary.

No action may be brought to compel marriage.

19. And it is hereby further ordered, that in no case whatsoever shall any suit or proceeding be had in any Court or before any jurisdiction whatsoever, to compel the celebration of any marriage by reason of any promise or marriage contract entered into, or by reason of seduction, or of any cause whatsoever which shall arise after the taking effect of this Order, any law or usage to the contrary notwithstanding.

Saving of right of action for breach of promise, &c.

20. Provided always, that nothing herein contained shall prevent any person aggrieved from suing for or recovering damages in any Court, or by any proceeding wherein and whereby damages may be lawfully recovered for breach of promise of marriage, or for seduction or other cause as aforesaid.

Directions for ministers and marriage officers in registration of marriages.

21. And in order to preserve evidence of marriages, and to make the proof thereof certain and easy, and for the direction of such ministers and marriage officers as aforesaid in the registration thereof, it is hereby further ordered, that from and after the passing and taking effect of this Order, all marriages (except marriages by special license to marry at any time and place where such special licenses can be lawfully granted), shall be solemnized with open doors between the hours of eight in the forenoon and four in the afternoon, in the presence of two or more credible witnesses beside the minister or marriage officer who shall solemnize the same; and that immediately after the solemnization of every marriage, an entry thereof shall be made in a marriage register book to be kept for that purpose by some such minister or marriage officer as aforesaid, or in some safe custody, for the place in which marriages may be solemnized; and in every such entry in every such register, it shall be expressed that the marriage was had by banns or license; and if both or either of the parties married by license be under age, and not a widow or widower, that it was had with the consent of the parents or guardians, or other person or persons having lawful authority to withhold consent to the marriage, or after such order of the Chief Civil Judge, or other person officiating as such, as aforesaid, and shall be signed by the minister or marriage officer as the case may be, with his proper addition, and by the parties married, and shall be

Hours of marriage. Witnesses.

Entry in register.

Particulars to be expressed in the entry.

MARRIAGE—ORDER IN COUNCIL.

attested by such two witnesses; and every such entry shall be in the form or to the effect of the following specimen:—

ORIGINAL REGISTER.

1838. *Marriages solemnized at Georgetown, in the Parish of* _____ *in*
the County of _____ *, 1838.*

No.	When Married.	Names and Surnames.	Ages.	Condition	Rank or Profession.	Residence at the time of Marriage.	After Banns or License.	Consent, by whom given, or Judge's Order.
1	1st Aug., 1838.	John Williams	Full Age	Bachelor	Carpenter		After Banns	
		Lucy Chambers	Minor	Spinster				Henry Chambers Father

Married, in the Wesleyan Chapel at Georgetown aforesaid, after banns, by me, A. B., Wesleyan Minister.

This marriage was solemnized between

Us, { John Williams, } In the presence of us,
 { Lucy Chambers, }
 { C. D. }
 { E. F. }

And of every such entry, at the same time, before the parties depart, shall then and there be made in a separate piece of paper, parchment, or vellum, a duplicate original register in which the same matter shall be entered and signed and attested by the same parties, in manner or to the effect of the following specimen:—

DUPLICATE ORIGINAL REGISTER (A).

1838. *Marriages solemnized at Georgetown, in the Parish of* _____ *in*
the County of _____ *, 1838.*

No.	When Married.	Names and Surnames.	Ages.	Condition	Rank or Profession.	Residence at the time of Marriage.	After Banns or License.	Consent, by whom given, or Judge's Order.
1	1st Aug., 1838.	John Williams	Full Age	Bachelor	Carpenter		After Banns	
		Lucy Chambers	Minor	Spinster				Henry Chambers Father

(A) See Law 16, 1867, s. 20, tit. "REGISTRATION (BIRTHS, ETC.)."

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Married, in the Wesleyan Chapel at Georgetown aforesaid, after banns, by me, A.B., Wesleyan Minister.

This marriage was solemnized between

Us, { John Williams, } In the presence of us,
 { Lucy Chambers, }
 { C. D. }
 { E. F. }

Examined with the Original Register by me and found to be correct.

A. B.

Which said duplicate original register shall be left in the hands of the minister, or marriage officer by whom the marriage was solemnized; and every such duplicate original register shall, within one calendar month from the date thereof, be transmitted to the Colonial Secretary of the Colony, if there be one, and all such duplicates shall be filed and safely preserved by him in his office (A); and every such original register, and also every copy thereof certified under the hand of the minister or marriage officer who for the time being shall have the lawful custody of the original, to be a true copy, and every such duplicate original register, and also every copy thereof certified under the hand of such Colonial Secretary to be a true copy, shall respectively be good evidence of the facts therein recorded, in pursuance of this Order, in and before all Courts and proceedings whatsoever in which it shall be necessary to give evidence of the marriage to which the same shall relate.

Persons may inspect original register book, and file of duplicate original register, and have certified copies.

22. And it is hereby further ordered, that it shall be lawful for all persons, at all reasonable times in the day except Sundays, to search the original register book, and also the file of duplicate original registers, in the presence of the person for the time being having the care of the same respectively, or his deputy, and to have a true copy or true copies of any entries or entry therein, or filed as aforesaid, certified under the hand of the minister, marriage officer, or officer for the time being respectively having the custody of the original or duplicate original register as aforesaid, as the case may be; which true copies or copy such minister, marriage officer, or Colonial Secretary is hereby required to make, and certify under his hand to be a true copy, in the form of the duplicate original register, except that the same shall be headed "Certified copy (or copies) of original (or duplicate original) marriage register," as the case may be, and shall be dated on the day, month, and year when the same shall be delivered.

Fees payable.

23. And it is hereby further ordered, that in order to meet the expense, and as a remuneration for the trouble occasioned by the performance of any duty under this Order, the following fees shall be demanded and payable before the performance of the duty to which the same respectively relate, that is to say:—

For solemnizing and registering a marriage, and transmitting the duplicate original to the Colonial Secretary, four shillings.

For every general search, not directed to any particular entry, four shillings.

For every search for a particular entry, two shillings.

For every search for two or more particular entries, and not exceeding four entries, one shilling each.

(A) And, in the case of marriages of Indian Immigrants, a copy is to be sent to the Protector of Immigrants (Law 25, 1891, s. 72, tit. "IMMIGRATION (INDIAN)."

For every search for any number of particular entries, exceeding four, four shillings. Ord. 17, 1846.

For every such certified copy as aforesaid, two shillings.

24. Provided always, that nothing herein contained shall prevent any clergyman of the Established Church of England and Ireland from receiving, for any duty performed by him under this Order, such fees or payments as have heretofore been customarily paid to such clergymen, according to the rules of the said Church, for the performance of such duties respectively. Clergymen of Church of England to receive their customary fees.

25. Provided always, that nothing in this Order contained, shall authorise or require any clergyman of the Established Church aforesaid, to solemnize marriage in any other manner than is prescribed by the rubric. Clergymen of Established Church not required to solemnize marriage otherwise than is prescribed by rubric.

26. Provided also, that it shall be lawful for the Governor to authorise such marriage officers as aforesaid, to receive such further or other remuneration as he shall, from time to time, think the nature of their duties shall reasonably require. Remuneration of marriage officers.

27. And it is hereby further ordered, that if any person shall unlawfully and maliciously erase, obliterate, or destroy, or cause or procure to be erased, obliterated, or destroyed, any such original register, or duplicate original register as aforesaid, such person shall be deemed guilty of a misdemeanour, and, on being duly convicted thereof, shall be liable to be imprisoned in the common gaol in the jurisdiction in which he shall be tried and convicted thereof, for any term not less than three, nor exceeding twelve calendar months. Punishment for erasing or destroying registers.

28. And if any person shall unlawfully and wilfully forge or alter, or falsely make or cause, or procure, or permit, to be forged or altered, or falsely made, any such original register, or duplicate original register, or any certified copy thereof respectively, or shall knowingly and wilfully deliver, offer, alter, or put off any such forged, false or altered copy, he shall be liable for such his offence, on conviction thereof, to be imprisoned in such gaol as aforesaid, for any term not exceeding eighteen months, nor less than six months. Forging or altering registers.

29. And it is hereby further ordered, that it shall and may be lawful for the respective Local Legislatures of the said Colonies of British Guiana, Trinidad, St. Lucia, Cape of Good Hope, and Mauritius, by any Ordinance to be by them for that purpose made, to provide for the better adaptation of this present Order, to the local circumstances of such Colonies respectively: Provided, that such Ordinance be not in contradiction, or repugnant to, any of the provisions of this Order, and that all such Ordinances be made, confirmed, or disallowed, as the case may be, in the manner and according to the rules provided by law in reference to any other Ordinances of the said respective Local Legislatures. Local Legislature may make Ordinances for better adaptation of this Order to Colonial circumstances.

30. And whereas, since the abolition of slavery in the British Colonies, plantations and possessions abroad, doubts have arisen and exist as to the validity of certain marriages contracted and solemnized previous to the abolition of slavery in the said Colonies, plantations and possessions, between slaves and between parties, one of whom was a slave, and also in some cases between free persons of colour, and since the abolition of slavery between apprentices and other persons of free condition, by ministers of the Christian religion other than clergymen of the United Church of England and Ireland, and it is expedient and necessary that all such doubts should be removed, and such marriages and reputed marriages should be ascertained and confirmed, and that all persons who may have solemnized any such marriages or reputed marriages, or who have, in any manner assisted thereat, should be indemnified from and against Recital of existence of doubts as to validity of certain marriages.

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all pains, penalties, forfeitures, and proceedings, to which such persons, or any of them, may be liable therefor:—

Marriages heretofore solemnized by ministers, not of the Church of England, declared valid and effectual from the time of solemnization.

31. It is therefore further ordered, that all marriages which at any time before the taking effect of this Order shall have been solemnized in any of the Colonies to which this Order applies, by or before any such ministers of the Christian religion as aforesaid, shall be and the same are hereby declared to be, and to have been from the time of the solemnization thereof respectively, good, valid and effectual to all intents and purposes whatsoever, any law or usage to the contrary thereof in any wise notwithstanding; and all pains, penalties, forfeitures and proceedings of whatsoever kind or description which any such Christian minister may have incurred or become liable to before the taking effect of this Order, by reason of his having solemnized or assisted at any marriage whatsoever, or in anywise in relation thereto, is and are hereby remitted, released, repealed and made void.

Registers kept by such ministers and certified copies thereof to be received as evidence.

32. And whereas, in the Colonies in which marriages have been celebrated as aforesaid, registers thereof have been duly made and kept by such ministers as aforesaid who officiated thereat, it is therefore further ordered that all such registers, and all copies thereof respectively, certified under the hand of the person for the time being having the lawful care of the same, to be true copies, shall be, and are hereby declared to be good evidence of such marriages as aforesaid respectively, as fully as if such registers had been made and kept and such certified copies had been made respectively by persons appointed by law to make and keep the same, and shall be received in evidence in all Courts and before all Judges and Magistrates.

A fair copy of all registers to be made within six months, examined, verified, certified by a Magistrate, and sent to the Colonial Secretary.

33. And it is hereby further ordered, that the better to preserve evidence of marriages so registered, and to facilitate the proof thereof, every person in whose custody any register lawfully is, or shall be at the time, shall, within six months after the promulgation of this Order, to which the same extends, respectively make or cause to be made a fair and correct copy of every such register, and of every entry therein contained; and it shall be lawful for any such Christian minister as aforesaid to examine, verify, and correct (if and where found incorrect) by the original any such copy of a register kept by the persuasion to which he belongs, and to take the same before any Magistrate, and make and sign the following declaration, which any Magistrate to whom the same shall be tendered is hereby authorised and required to receive, and to certify in manner following, that is to say:—

“I, A. B., (describe the persuasion to which he belongs), do hereby solemnly, sincerely, and truly declare that I have carefully examined this copy, beginning the day of (month and year), and ending on the day of (month and year), and containing pages and entries of marriage, with the original register, and I fully believe the same to be throughout a true and faithful copy of the original register of which it purports to be a copy.

(Signed) A. B.”

“The said A. B. appeared this day of before me, C. D., one of Her Majesty’s Justices of the Peace in and for , and made and signed the above declaration in my presence.

(Signed) C. D.”

Which declaration, and Magistrate's certificate thereof, shall be entered and signed at the end of the copy to which it relates, and the copy shall be then securely sealed up and forthwith sent to the Colonial Secretary as aforesaid, to be kept by him with the registers of marriage in his office, where the same may be searched; and every copy of any entry therein certified under his hand to be a true copy, shall be of the same force and effect as any certified copy whatsoever, made by him, is, or can be, and which certified copies he is hereby required to make and may receive payment for as in other cases.

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34. And if any such minister as aforesaid shall wilfully make and sign any such declaration, knowing the same to be false, he shall be liable to the pains and penalties to which persons guilty of wilful and corrupt perjury are liable.

Penalty on minister making false declaration.

35. And whereas, in consequence of imperfect instruction in the Christian religion, and from other causes, many marriages, "de facto," have taken place between persons, one or both of whom were in the condition of slavery, but which marriages, "de facto," have never been sanctioned by any public ceremony, or formally registered, and in many such cases the parties have had offspring of such last mentioned marriages, and it is expedient that provision should be forthwith made for enabling such persons to confer upon their children the benefit of children born in lawful wedlock.

Marriages of certain persons in the condition of slavery.

36. It is therefore further ordered, that it shall be lawful for all persons, having contracted marriage as last aforesaid, at any time within one year after the coming into operation of this Order, duly to solemnize the marriage ceremony before any clergyman of the Established Church, or in any other manner authorised by this Order; and every person so recognising a previous marriage, "de facto," shall, at the same time, make and sign the following declaration, which shall also be attested by the witnesses present, and signed by the minister or marriage officer before whom the ceremony is performed:—

De facto marriages—if recognised and solemnized within one year from the coming into operation of this order,—

" We, A. B. and C. D., do hereby severally, solemnly, sincerely
 " and truly declare, that on the day of
 " in the year , or thereabout, at
 " we the said A. B. and C. D., intermarried with each
 " other, and that we have had issue of the said marriage
 " children, and no more, namely— (here
 " state the names and ages of the children, and if any
 " be dead, state the fact).

(Signed) A. B.
 C. D."

" X. Y."

37. And such marriage ceremony shall have relation back to the time of the marriage, "de facto," and all such children shall be deemed and taken to have been born in holy wedlock and shall possess and enjoy all the rights, privileges and advantages of persons born in lawful wedlock; and to preserve evidence thereof, a duplicate original declaration shall then and there, before the parties depart, be made, signed and attested in the same manner, and the original declaration shall be appended to and kept with the original register, and the duplicate original declaration shall be appended to, sent, and kept with the duplicate original register and shall, for all purposes of evidence, be deemed part thereof respectively: Provided always, and it is hereby declared, that such last mentioned ceremony and declaration may be performed and made without the previous publication of banns, or a license.

relate back to the time of the marriage *de facto*, and do not require publication of banns or license.

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This Order to be translated into the language commonly used, and things done by means of translation to be valid.

38. And it is hereby further ordered that where in any Colony to which this Order applies, any other language than English shall be commonly used, the Governor shall cause a true and faithful translation of this Order, and particularly of the several forms and declarations herein contained, to be made, expressing the true intent and meaning thereof; and such translation, when promulgated by the Governor, may be lawfully used by all persons speaking such language; and everything done under this Order, by means of such translation, shall be as valid and effectual, to all intents and purposes whatsoever, as if the same had been done in the original language of this Order, any law or custom to the contrary notwithstanding.

Interpretation of terms.

39. And it is hereby further ordered that the word "Governor," in this Order, shall be taken to mean the Governor, or other officer lawfully administering the Government of such Colony; and the word "parish," in Colonies divided into parishes, shall be taken in its ordinary sense; and in Colonies not divided into parishes, shall be taken to mean such other districts or divisions as, for civil purposes are equivalent to parishes; and the term "extra-parochial place," shall be taken to mean any place not included in any such parish, district, or division and if, in any case, there be no such district or division, or if it be uncertain to what kind of district or division the word "parish" is hereby intended to apply, the same shall be determined and officially declared by the Governor.

Commencement

40. And it is further ordered, that this Order shall take effect and come into operation in the Colony of Mauritius on the first day of February, one thousand eight hundred and thirty-nine; in the Colony of the Cape of Good Hope, on the said first day of February, one thousand eight hundred and thirty-nine; and in all other Colonies to which it applies or extends, on the first day of December, one thousand eight hundred and thirty-eight.

What included in the Colonies to which this Order extends.

41. And it is further ordered and declared, that within the meaning, and for the purposes of this Order, all islands and territories dependent upon any of the Colonies to which this Order applies or extends and constituting parts of the same Colonial Government, shall respectively be taken to be parts of such respective Colonies.

Directions.

42. And the Right Honourable Lord Glenelg, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

(Signed) C. GREVILLE.

Law No. 28, 1865 (A).

"For relieving certain Persons from the operation of Native Law."

[24th August, 1865.]

Law of the Colony in regard to legitimacy of issue.

20. The ordinary law of the Colony by which children born before wedlock become legitimate by the legal marriage, subsequent to their birth, of their parents, is hereby extended to and made applicable to the children of any native so exempt as aforesaid by a wife whom he has married according to any Christian rites.

(A) See this Law in full, tit. "NATIVE LAW."

Law No. 2, 1876.

“To provide for the Signing of Marriage Licenses.”

[11th November, 1876.]

WHEREAS it is expedient to give greater facilities for the issuing of Special Marriage Licenses, and for this purpose to amend the provisions of Section 11 of the Order in Council of 7th September, 1838 :

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

1. All marriage licenses issued in this Colony shall be signed for and on behalf of the Lieutenant Governor by the Colonial Secretary, or such other person as the Lieutenant Governor may appoint for that purpose (A).

Marriage licenses by whom to be signed.

2. The Ordinance No. 17, 1846, entitled “Ordinance to amend the Law regarding Marriages within the District of Natal,” the Order in Council of 7th September, 1838, and this Law, shall be read and construed together as one law.

Construction.

3. This law shall commence and take effect from the date of the promulgation thereof in the “NATAL GOVERNMENT GAZETTE” (B).

Commencement

Law No. 19, 1881.

“To provide for the appointment of Marriage Officers for the Solemnization of Marriages of persons professing the Jewish faith, and of persons professing the Mohammedan faith.”

[20th December, 1881.]

WHEREAS it is expedient to afford additional facilities for the contracting of valid marriages by persons professing the Jewish faith, and by persons professing the Mohammedan faith :

BE IT THEREFORE ENACTED by the Administrator of the Government of Natal, with the advice and consent of the Legislative Council thereof, as follows :

1. It shall be lawful for the Governor, from time to time, and in the manner and form as in the twelfth section of the Order of Her Majesty the Queen in Council, dated the seventh day of September, 1838, to appoint Marriage Officers for the solemnization of marriages of persons professing the Jewish faith, and of persons professing the Mohammedan faith: Provided, that no marriage solemnized by any such Marriage Officer shall be invalidated or impeached by reason that neither of the married parties belonged, or was reputed to belong, to the class or denomination for which such Marriage Officer was appointed.

Governor may appoint marriage officers for Jews and Mohammedans.

2. The Ordinance No. 17, 1846, entitled “Ordinance to amend the Law regarding Marriages within the District of Natal”; the Law No. 2, 1876, entitled Law “To provide for the signing of Marriage Licenses,” and this Law, shall be read together and construed as one Law.

Ord. 17, 1846, Law 2, 1876, and this Law, to be construed together.

(A) See Law 7, 1889, post, which authorises Magistrates to grant special licenses.

(B) December 12, 1876.

Law 19, 1881. 3. This Law shall commence and take effect from and after
Commencement the date of the promulgation thereof in the "NATAL GOVERNMENT
GAZETTE" (A).

Law No. 7, 1889.

"To Regulate the Issue of Licenses for the Solemnization of
Marriages."

[26th June, 1889.]

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

Magistrates
may grant
special licenses.

1. The Resident Magistrate of every Division is hereby
authorised, subject to the provisions of this Law, to grant special
licenses within the Colony, and every such license shall be duly
stamped with stamps denoting the duty by law payable, and shall be
as nearly as is material in the form contained in the first schedule of
this Law.

License to be
void after three
months.

2. Unless a marriage shall be solemnized in pursuance of any
license obtained and issued under the provisions of this Law within
three months after the grant of such license, such license shall be
of no effect, and no marriage shall be solemnized in pursuance
thereof; nor shall any person having taken out a marriage license be
entitled to a refund of the amount paid for such license, in case the
marriage shall not be solemnized.

Intending
spouses to make
declaration in
Schedule 2.

3. No such license shall be granted by any Resident Magistrate
unless or until the intended husband and intended wife shall have
made before such Magistrate, or before some Justice of the Peace,
solemn declarations, in the form and to the effect set forth in the
second schedule of this Law, and all such declarations shall be
preserved of record in the offices of the respective Resident
Magistrates.

Consent of
parents, &c., in
case of minors.

4. No license shall be granted by any Resident Magistrate for
the marriage of any person, not being a widower or widow, under the
age of twenty-one years, unless and until there be produced to such
Magistrate the written consent of the parents or guardians, or other
person (if any) whose consent is required by law, or order of the
Chief Justice of the Colony, granted in terms of the Seventeenth
Section of Her Majesty's Order in Council, dated the 7th day of
September, 1838.

Questions may
be put before
granting license

5. Any Resident Magistrate to whom application shall be made
for any such special license as aforesaid may put to both or either
of the parties intending marriage all such questions as shall be
relevant and necessary for determining whether there be or be not any
lawful impediment to such marriage, and may refuse to grant such
license unless satisfactory answers shall be given.

Offences and
penalties.

6. Whoever shall commit any of the following acts or offences,
shall, upon conviction, be liable, at the discretion of the Court, to
be imprisoned, with or without hard labour, for any term not
exceeding five years:—

- (1) Make any declaration such as is referred to in the third
section of this Law, for the purpose of obtaining a
license to marry, containing any wilfully false state-
ments as to any facts therein alleged.
- (2) Make any wilfully false statement in answer to any

(A) December 28, 1881.

question put by any Resident Magistrate under the provisions of the Fifth Section of this Law, as to any fact material to be ascertained. Law 7, 1889.

(3) Forge or fraudulently alter any consent or writing purporting to be a consent to the marriage of any person being a minor under the age of twenty-one years.

(4) Forge or fraudulently alter any license of marriage.

7. All offences under this Law shall be tried before the Supreme Court or any Circuit Court of this Colony. Offences, where cognizable.

8. This Law may be cited for all purposes as "The Marriage License Law, 1889." Short title.

THE FIRST SCHEDULE.

Marriage License Law, 1889.

It having been made to appear that there does not exist any legal impediment to A. B., of Schedules.
in the Division of
{ Bachelor } and C. D., of
{ Widower }
in the Division of
{ Spinster } being joined
{ Widow }

together in wedlock: License is hereby given to their being united in marriage by any minister of the Christian religion within the Colony, who could by virtue of the Order of Her Majesty in Council bearing date the 7th day of September, 1838, have solemnized such marriage, in case banns thereof had been duly published, or by any other duly constituted marriage officer: Provided that such marriage be celebrated within three months from the date hereof.

Given under my hand at this
day of 18

Resident Magistrate for the Division of

THE SECOND SCHEDULE.

I { John Smith } (usual place of residence and occupation)
{ Mary Jones }
do solemnly and sincerely declare as follows:—

(1) That I am a { Bachelor or Widower } and am (under or above as the case may be) the age of twenty-one years.

(2) That I have no knowledge of any just impediment or lawful objection by reason of any kindred relationship, or alliance of any former marriage, or the want of consent of parents or guardians, or any other lawful cause whatever, to my being married to { Mary Jones } { John Smith } of (usual place of residence) and in case of the bride, add: daughter of John Jones, of (usual place of business and occupation), and I make this solemn declaration, conscientiously believing the same to be true, and with full knowledge that any wilfully false statement herein contained will render me liable to imprisonment with hard labour for a term not exceeding five years.

Declared at day of
this
Before me,

Act No. 45, 1898.

“To repeal and re-enact, with certain amendments, Act No. 15 of 1897, entitled ‘Act for removing a certain Restriction upon Marriage within the Colony of Natal.’”

[5th September, 1898.]

WHEREAS it is desirable to repeal Act No. 15 of 1897, entitled “Act for removing a certain Restriction upon Marriage within the Colony of Natal,” and to re-enact the same with certain amendments:

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:—

1. Act No. 15, 1897, is hereby repealed.

2. No marriage heretofore or hereafter contracted within this Colony shall be deemed to have been or shall be void or voidable by reason only of having been or being contracted between a man and his deceased wife's sister, notwithstanding any statute, canonical, or other objection; unless it has been already judicially annulled, or unless either party thereto has, after the marriage and during the life of the other, already lawfully married another; and such evidence as would be proof of any other marriage shall be received for all purposes as evidence of such marriages respectively.

3. This Act shall not be construed to deprive or to have deprived any person of any property which such person may have lawfully inherited prior to the coming into operation of this Act, nor to affect any “*lis pendens*.”

4. No person authorised under the Laws of this Colony to issue Marriage Licenses shall refuse to do so on the grounds merely of affinity existing as aforesaid.

5. No Minister of Religion shall be liable to any pains or penalties for refusing to solemnize any marriage made valid by this Act.

6. This Act shall not come into operation unless and until the Governor notifies by Proclamation in the “NATAL GOVERNMENT GAZETTE” that it is Her 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 (A).

MARRIAGE (BREACH OF PROMISE).

[See Law 5, 1870, sec. 2, tit. “EVIDENCE AND WITNESSES.”]

MARRIAGE (INDIANS).

[See “IMMIGRATION (INDIAN).”]

(A) Took effect on 3rd January, 1899. See proclamation in *Government Gazette* of 30th December, 1898.

MARRIAGE (NATIVES).

[See "NATIVE LAW."]

Law No. 28, 1865.

"For relieving certain persons from the operation of Native Law (A)."

[24th August, 1865.]

20. The ordinary law of the Colony by which children born before wedlock become legitimate by the legal marriage, subsequent to their birth, of their parents, is hereby extended and made applicable to the children of any native so exempt as aforesaid by a wife whom he has married according to any Christian rites.

Ordinary law of legitimation extended to children of exempted Native by Christian wife.

24. It shall not be lawful for any Native, having been exempted from Native Law and having contracted marriage, should either of the parties to such marriage become a widower or widow as the case may be, or should they be divorced by process of law, to contract any marriage at any future time by Native Law, custom, or usage; and any such future marriage or pretended marriage shall be null and void and of no effect: and any native acting contrary to this provision shall be liable on conviction to a fine not exceeding fifty pounds or to imprisonment for any period not exceeding two years, at the discretion of the Supreme or Circuit Courts of the Colony, on the prosecution of the Attorney-General.

Exempted Native must never afterwards contract marriage under Native Law.

Law No. 46, 1887.

"To regulate the Marriage of Natives by Christian Rites."

[18th September, 1887.]

WHEREAS it is desirable that the marriages of Natives by Christian Rites should be regulated; and whereas it is desirable that all such marriages so solemnized should, in all respects, be treated as marriages under the ordinary law of this Colony, as administered in the Supreme Court thereof:

AND WHEREAS it is desirable to make provision accordingly:

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

1. On and after the coming into force of this Law, it shall and may be lawful for any of the Natives of this Colony who may be desirous of being joined together in matrimony by Christian Rites to be married under the provisions of Ordinance No. 17, of 1846 (B), entitled "Ordinance to amend the Law regarding marriages within the District of Natal," subject, however, to the special provisions hereinafter set forth, in so far as the same may vary, alter, or amend, the said Ordinance and Order in Council of 7th September, 1838: and provided also that it shall not be lawful for any marriage officer appointed by the Governor under the provisions of Clause 12 of the said Ordinance No. 17, of 1846, to solemnize marriage between any

Natives may be married by Christian rites under provisions of Ord. 17, 1846, and of this Law.

(A) See this Law in full under tit. "NATIVE LAW."
 (B) See tit. "MARRIAGE," ante.

Law 46, 1887. parties, being Natives, and not exempted from the operation of Native Law under the provisions of Law No. 28, 1865.

Intending spouses to apply to Magistrate.

2. Any Natives desirous of being married in accordance with Christian Rites shall apply to the Resident Magistrate of the Division or County in which they or the intended bride reside, for a license, and the said Natives shall, before obtaining such license to be married in accordance with Christian Rites, subscribe and declare to the particulars required in the Schedule to this Law annexed, marked A; and the said Resident Magistrate shall, after the parties to the intended marriage have subscribed the declaration as set forth in the Schedule B, annexed to this Law, that the nature and obligation of the marriage contract they desire to enter into has been fully explained to and understood by them, and upon receipt of the fee hereinafter provided, issue a license in the form of the Schedule to this Law annexed, Marked C; provided always that such license shall be in force for a period of three months from the date thereof, and no longer.

Issue of license.

What to be deemed a marriage by Christian rites.

Declarations when ceremony is other than that of Church of England.

3. A marriage by Christian Rites shall be taken and deemed to be any marriage solemnized by any minister of religion duly authorised thereto under the provisions of the Ordinance No. 17, of 1846: Provided always, that whenever the form and ceremony used shall be other than that of the Church of England, each of the parties shall, in some part of the ceremony, make the following declaration:

"I do solemnly declare that I know not of any lawful impediment why, I, A. B., may not be joined in matrimony to C. D., here present."

And each of the parties shall say to the other—

"I call upon these persons here present to witness that I, A. B., do take C. D., to be my lawful wedded wife (or husband)."

Penalty for false declaration before Magistrate.

4. Any Native who shall wilfully declare to the truth of the particulars set forth in any declaration executed as aforesaid before the Resident Magistrate, knowing the same to be untrue, shall be liable, on conviction, to a fine not exceeding £10, or to imprisonment with hard labour for any period not exceeding three months.

Consent necessary where woman is an unexempted Native.

5. Should the Native woman to be married not be exempted from the operation of Native Law, then in such case, the consent of her father, or in case of his death, the consent of the person who, by Native Law, stands in the position of her guardian, must in like manner be obtained to her marriage before the issue of the marriage license: Provided always, that it shall and may be competent for the Governor to dispense with the consent of the parents, or guardians aforesaid, as in the next succeeding section set forth.

Where consent is unobtainable the Governor, on petition, may authorise the issue of license.

6. Should the parent or guardian whose consent to any marriage is required under this Law be "non compos mentis," or be dead, or be absent from the Colony, or be otherwise incapable of consenting; or should he, or they be induced unreasonably or improperly to withhold his, or their consent, it shall be lawful for the parties desirous of being married under this Law to petition ^{the Governor} ~~the Governor, and the Governor~~ may, should he be satisfied that there is no sufficient objection to such marriage, issue his order in writing authorising the issue of the license as required in the last preceding section, and every marriage duly solemnized in pursuance or under the authority of such order, and in accordance with this Law, shall be as good, valid, and effectual to all intents and purposes whatsoever, as if the consent of the parent or guardian had been duly given thereto.

7. It shall not be competent nor lawful for any natives, one or both of whom may be subject to Native Law, to be married by Christian rites except the license herein provided for be first had and obtained.

Law 46, 1887.
Unexempted Native may not be married by Christian rites without license.
Minister may not solemnize matrimony without production of license.

8. It shall not be competent nor lawful for any Minister of the Christian religion to solemnize matrimony between Natives one or both of whom may be subject to Native Law, except upon the production to him, the said Minister, of the marriage license hereinbefore provided for, and every Minister of the Christian religion solemnizing matrimony according to Christian rites between Natives, one or both of whom may be subject to Native Law, shall, in terms of Section 6 of Law No. 16 of 1867 (A), transmit to the Registrar-General a certified copy of the duplicate original Register of every marriage so solemnized by him, together with a copy of the license required by this Law; and any such Minister, who may refuse or neglect to transmit the same, shall, on conviction before the Court of any Resident Magistrate, be liable to a fine not exceeding £5 sterling.

Copy of duplicate register and license to be transmitted to Registrar-General. Penalty for default.

9. Nothing in the preceding Sections of this Law set forth shall be taken to apply to any marriage between Natives of which the parties thereto shall, both of them, prior to the date of such marriage, have been exempted from the operation of Native Law.

Preceding sections not to apply to marriages of exempted Natives.

10. It shall and may be competent for the parties to any marriage to be solemnized under this Law, when the male Native is exempted from the operation of Native Law, to make and enter into any ante-nuptial contract duly signed and jointly executed, or in the presence of two witnesses, in the same manner as the parties to any marriage who are not Natives, are, or may be, under the Laws of the Colony, permitted and authorised to make an ante-nuptial contract (B).

When male Native is exempted parties may make an ante-nuptial contract.

11. No marriage between Natives solemnized under this Law shall, when the male Native is subject to the Native Law in force in this Colony in anywise, except as is in this Law provided, remove either of the parties to such marriage from the operation of such Native Law, either in their persons or their property.

Effect of marriage as regards operation of Native Law.

12. It shall not be lawful for any Court administering Native Law to entertain any suit or petition for any divorce or separation, or the like, in reference to any marriage solemnized between Natives according to Christian Rites under the provisions of this Law: Provided always, that it shall and may be lawful for the parties to any such marriage to sue for and obtain a divorce or other relief (c) by process under the ordinary Laws of the Colony (D).

No Court administering Native Law to entertain suit for divorce or the like in reference to any marriage under this Law.

13. Any Native having contracted marriage under the provisions of this Law who shall during the lifetime of his or her spouse, unless legally divorced under the ordinary Laws of the Colony, contract any marriage in accordance with Christian Rites or under the Native Laws, customs, or usages, shall be held to have committed bigamy, and shall be liable to be prosecuted and punished accordingly under the ordinary Laws of the Colony.

Bigamy.

14. ~~It shall not~~ be lawful for any Native, having contracted marriage by Christian Rites under the provisions of this Law, should either of the parties to such marriage become a widower or widow, as the case may be, or should they be divorced by process of Law, to contract any marriage at any future time by Native Law, custom, or

Widower or widow may not contract marriage afterwards by Native Law or custom.

(A) See tit. "REGISTRATION (BIRTHS, &c.)."

(B) See tit. "COMMUNITY OF GOODS."

(C) This does not include the right to recover damages from a co-respondent,

the words "other relief" including a separation or restitution of conjugal rights (*Nomanya v. Nomazoki and Sibande*, 14 N.L.R. 158).

(D) See tit. "DIVORCE."

MARRIAGE (NATIVES).

Law 46, 1887. usage, and ~~any such future marriage~~, or pretended marriage, shall be null and void and of no effect: and any Native acting contrary to this provision shall be liable to be punished by fine, not exceeding £25, or imprisonment with hard labour, not exceeding one year, at the discretion of the Supreme or Circuit Courts of the Colony on the prosecution of the Attorney-General.

Penalty.

Children of marriage by Christian rites not to marry by Native Law or custom.

Penalty.

15. It shall not be lawful for the children of any Natives married by Christian Rites under the provisions of this Law, such children being the issue of such marriage, to contract marriage by Native Law, custom, or usage, and any such marriage shall be null and void and of no effect, and the party or parties to the same shall be liable to be punished by fine not exceeding £25, or imprisonment with hard labour not exceeding one year, at the discretion of the Supreme or Circuit Courts of the Colony, on the prosecution of the Attorney-General.

License fee.

16. There shall be payable to Her Majesty, Her Heirs and Successors, to be applied to the uses of the Government of this Colony, on each marriage license issued under this Law, a fee of 10s., and the Resident Magistrate issuing any such license shall collect the said sum from the person obtaining the same.

Repeal of rules or provisions of the Native or ordinary Law repugnant to this Law.

17. Any rules, regulations, or other provisions of the Native Law or of the ordinary Law in force in this Colony, in so far as the same are at variance or in conflict with or repugnant to the several provisions of this Law, shall be, and the same are hereby, varied or repealed as the case may be.

Commencement

18. This Law shall not come into operation unless and until the Officer administering the Government notifies by Proclamation, that it is Her Majesty's pleasure not to disallow the same, and thereafter it shall come into operation upon such day as the Officer administering the Government shall notify by the same or any other Proclamation (A).

SCHEDULE A.

Schedules.

At Natal

Before me, day of
Resident Magistrate, on the 188

Appeared
who is desirous of entering into the Bonds of Matrimony in accordance with Christian Rites, and having been duly cautioned, states in answer to the following questions:

Name

Father's name

Age

Where born

Name of Chief and Tribe

Condition [Single Man or Single Woman]

Whether exempted from Native Law or not

If exempted, date of Letter of Exemption

Whether divorced or not

If divorced to produce proof of divorce

If previously married to state names, ages, and sex of children, if any, by such marriage

To be married to whom.

(A) Came into force January 1, 1888. See Pn. in G.G., dated December 13, 1887.

MARRIAGE (NATIVES).

5

I further declare that I am not related to
am under no previous engagement.

and that I Law 46, 1887.

Schedules:

Signed

Before me

Resident Magistrate.

I hereby certify that I have fully explained the nature and
obligation of the marriage contract to the abovenamed, and that
acknowledges to having fully understood the same.

Resident Magistrate.

SCHEDULE B.

I also hereby declare that the nature and obligation of the
marriage contract I desire to enter into has been fully explained
to and understood by me; and I am aware that should I contract
another marriage during the lifetime of my spouse without having
previously obtained a divorce, as required by Law No. , of
188 , I shall be liable to prosecution for bigamy, and to punish-
ment by either fine or imprisonment with hard labour, as may be
decreed by the Court.

Signed

Before me

Resident Magistrate.

SCHEDULE C.

Resident Magistrate's Office,
Natal,

188 .

and

having

appeared before me and stated their desire to be married under
Christian Rites, and having complied with all the provisions of Law
No. , of 188 , this is to notify that license is hereby granted
to them to be married in accordance with Christian Rites.

Resident Magistrate.

MARRIAGE (REGISTRATION).

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

MARTIAL LAW.

[See "INDEMNITY LAWS"; "POLICE"; "VOLUNTEERS."]

MASTER AND SERVANT.

[See "BURIAL"; "EMPLOYERS' LIABILITY"; "LABOUR TOUTS";
"MASTER & (NATIVE) SERVANTS"; REGISTRATION (SERVANTS),"
&c.]

Ordinance No. 2, 1850.

"Ordinance for regulating the relative rights and duties of Masters,
Servants, and Apprentices."

[21st March, 1850.]

WHEREAS, it is expedient to regulate the relative rights and duties of masters, servants, and apprentices, and to provide for the protection of the labouring classes :

1. BE IT THEREFORE ENACTED, by the Administrator of the Government of the District of Natal, with the advice and consent of the Legislative Council thereof, that, after the taking effect of this Ordinance, the various rules and regulations enacted and comprised in the chapters hereinafter contained, shall henceforth be observed, and shall have the full force and effect of law in this District.

2. And be it further enacted, that for the purposes, and within the meaning of this Ordinance, unless it be otherwise specially provided, or there be something in the subject, or in the context, repugnant to such construction :

Interpretation.

Lieut-Governor

1st. The officer lawfully administering the government of this District, shall be deemed and taken to be the Lieutenant Governor thereof.

Servant.

2nd. The word "servant" (A) shall be construed and understood to comprise any person employed for hire, wages, or other remuneration, to perform any handicraft, or other bodily labour, in agriculture or manufactures, or in domestic service, or as a boatman, porter, or other occupation of a like nature (B).

Apprentice.

3rd. The word "apprentice" shall be construed and understood to comprise any person, indentured or bound by any contract of apprenticeship, made according to law, as apprentice to any other person.

Master.

4th. The word "master" (c) shall be construed and understood to comprise any person, whether male or female, employing for hire, wages, or other remuneration any person falling within the before mentioned definition of the word "servant," or to whom any person falling within the before mentioned definition of the word "apprentice," shall have been indentured or bound by any contract of apprenticeship made according to law.

Contract of service.

5th. The words "contract of service" (d) and "contract of apprenticeship" shall respectively be construed and

(A) See Law 12, 1885, s. 2, post. See also Law 17, 1882, post, and Act 40, 1894, tit. "MASTER AND (NATIVE) SERVANTS," which removes Native Servants from the operation of chapters i. and iv. of this Ordinance.

(B) A youth employed in a pawnbroker's shop as a salesman is not a servant within this definition (*Morris v. Woolman*, 11 N.L.R. 230).

(c) See Law 12, 1885, s. 2, post.

(d) As to contracts of service made outside of Natal, see Ord. 13, 1852, post.

- understood to comprise any agreement, whether oral or written, whether expressed or implied, which any person falling within the before mentioned definitions of the words "servant" or "apprentice" shall have respectively entered into or made according to law with any person falling within the before mentioned definition of the word "master," for the performance of any work or labour of any kind hereinbefore mentioned. Ord. 2, 1850.
- 6th. The words "agricultural labour or occupation," shall be construed and understood to comprise and comprehend, not only all labour and occupation in agriculture, properly called, but also all labour and service employed in the rearing and tending of the live stock, kept by any breeder or grazier of cattle or sheep. Agricultural labour or occupation.
- 7th. The words "Magistrate" and "Magistrates" shall be construed and understood to comprise the Resident Magistrates, duly appointed for the different divisions of this District, and none other. Magistrate.
- 8th. The words "this District" shall be construed and understood to comprise all territories whatsoever, which are dependent on the District of Natal, and subject to the government thereof. This District.
- 9th. The word "month" shall be construed and understood to comprise the period of one calendar month. Month.
- 10th. All words in this Ordinance and in the various rules and regulations hereinafter enacted, importing the singular number, or the masculine gender only, shall be construed and understood to include several persons as well as one person, and females as well as males. Number and gender.
- 11th. The words "father, parent, relative, husband, and wife," shall respectively be construed and understood to comprise reputed fathers, parents, relatives, husbands, or wives, as well as actual parents and relatives, and lawful husbands and wives. Father, parent, &c.
- 12th. The words "officer, and proper officer," when used with reference to the attestations, or making of contracts of service or apprenticeship, or to the transfer and assignment of apprentices, shall be construed and understood to comprise every person who shall have been appointed by the Governor to attest or make such contracts (A).

CHAPTER I. (B).

On the formation, duration, &c., of Contracts.

1. [Repealed by Ordinance No. 13, 1852.]
2. Every contract of service, whether oral or written, the term of endurance of which shall not have been expressly specified and limited by such contract, shall, in the absence of sufficient proof to the contrary, be deemed and taken to be for the term of one month from the commencement thereof, save and except contracts for service in any trade or handicraft, whereby it shall not have been stipulated that the servant shall, during the term thereof, reside in the house, or on the premises of the master, which shall be deemed and taken to endure only until the night of Saturday of the week, on any day Duration of undefined periods of contract.

(A) See, as to the Protector of Indian Immigrants, Law 25, 1891, s. 14, tit. "IMMIGRATION (INDIAN)."

(B) This chapter does not apply to native servants; see Act 40, 1894, sec. 1, tit. "MASTER AND (NATIVE) SERVANTS."

Ord. 2, 1850.

of which it shall have been stipulated that the service shall commence, and contracts for executing any particular piece of work, specified in the contract, which shall expire so soon as the work is finished; and when the work is not finished within a reasonable time, may be put an end to by the master, after the lapse of a period of time reasonably sufficient for finishing such work.

Oral contracts.

3. No oral contract of service shall be valid or binding for any longer term than one year from the period stipulated for the commencement of the service in any case.

Contracts not signed before a Magistrate.

4. No contract shall be valid or binding for a longer period than one year from the date thereof, except the same be signed by the name, or, in case of illiterate persons, with the mark of the contracting parties, in the presence of a Magistrate, or other proper officer, nor unless such Magistrate or officer shall subscribe such written contract, in attestation of the fact that it was entered into by the parties voluntarily, and with a clear understanding of its meaning and effect.

Contracts signed before a Magistrate.

5. No such contract, so entered into before a Magistrate, or other proper officer, shall be valid or binding for a longer period than three years from the date thereof, in any case.

Form of contract.

6. All contracts of service, entered into before a Magistrate, or other proper officer, shall be drawn up, as nearly as possible, in the following terms:—

Form of Contract before Magistrate.

Be it remembered, that on this _____ day of _____, in the year of our Lord, _____ A. B., of _____ and C. D., of _____, appeared before me, E. F. (Resident Magistrate, or officer specially appointed by the Governor to attest contracts of service for the District, as the case may be, with his usual description), and, in my presence, signed their names (or made their marks, as the case may be), to the following contract of service:—

The said A. B. agrees to hire the services of the said C. D., and the said C. D. agrees to render to the said A. B. his services, at all fair and reasonable times, and in the capacity of _____, for _____ commencing on the _____ of _____, in the year _____

And be it further agreed, that the said A. B. shall pay to the said C. D., as such servant as aforesaid, wages after the rate of _____, by the (day, week, month, or year, as the case may be), and that such wages shall be paid on the _____ day of each week (or month, as the case may be). [Here add any special agreement compatible with the law, and not adverted to in this form.]

(Signed) A. B.
C. D.

The preceding agreement was signed by the above named parties, in my presence, on the day and year above written, voluntarily, the same being, as far as I am able to judge, understood by them respectively.

(Signed) E. F.,

Resident Magistrate, (or officer specially appointed by the Governor, to attest contracts of service for the District).

7. No contract of service, by the month, shall be deemed and taken to have expired, until at least one month's notice shall have been given, by either of the parties, to the other party, unless it has been expressly stipulated that no such notice shall be necessary. Provided always, that nothing in this section contained, shall be construed so as to require that the party, giving such month's notice, shall determine the contract of service, only at the end of some successive month thereof, or at any particular day or time whatever; and provided also, that nothing in this section contained shall be construed so as to enable any party, or any contract of service, to determine the same before the expiration of the term of service originally agreed upon.

Ord. 2, 1850.
Monthly contracts.

8. When any such notice, as is hereinbefore mentioned, shall have been given by either of the parties to the other, and the master shall suffer the servant to remain, or the servant shall remain in his service fourteen days after the day on which the notice was given, that the contract of service should expire, such notice shall be deemed and taken to have been withdrawn, and passed from, and the contract of service shall continue to endure as long, and in like manner, as if no such notice had been given, unless it shall have been otherwise expressly and specially agreed between the parties.

Notice given and waived.

9. In all contracts, whether oral or written, by which it is stipulated that the servant shall reside on the premises of his master, and wherein it shall not be expressly provided that the master is not to supply food and lodging, the master shall be deemed and taken to have engaged to provide such servant, and such of his family, if any, as shall have been included, in manner hereinafter mentioned, in Section 13 of this chapter, with lodging and sufficient food of good and wholesome quality during the continuance of the contract.

When master shall be deemed to have engaged to provide food, &c.

10. No servants' wages, if contracted for in money, may be paid in kind, or if contracted for in kind may be paid in money, or in any other than the stipulated kind, except by the express consent of the servant.

Payment of wages in kind.

11. In case of any complaint for non-payment of wages due and payable by virtue of any contract of service being brought before a Magistrate or other competent Court by any servant, and when the rate of wages at which such contract was made shall not be proved to the satisfaction of such Magistrate or Court, such Magistrate or Court is hereby required to fix the rate of wages at that usually paid in the District or place in which the service for which the wages are claimed was performed, reference being had to the skill and ability of the servant.

Magistrate may fix rate of wages.

12. When any servant shall, in consequence of any sickness or accident, be rendered incapable of performing his master's service, he shall not be entitled, in the absence of any special provision in the contract, to receive his wages, except such as shall be already due: Provided, however, that the master shall be bound to provide such servant, if residing or being on his premises, with proper and sufficient food during such incapacity of the servant for a period of two months, when he shall be at liberty to treat and consider the contract of service as determined and rescinded to all intents and purposes whatsoever (A).

Servants' sickness.

13. All contracts of service stipulating for the services of the wife of any servant together with those of her husband shall be made and executed by her in like manner as the same shall be made and executed by her said husband; and it shall be lawful for the father, or in the event of his death or absence, then for the mother of any child, under the age of sixteen years, to contract for the service

Contracts for services of wives and children of servants.

(A) See provisoes added by Law 3, 1891, post.

Ord. 2, 1850. of such child, together with his own, in like manner as such person may contract for his own services.

Death of female servant's husband. 14. On the death of any person, being at the time, together with his wife and any child, under contract as aforesaid, the contract shall become null and void in respect to such wife and children, at the expiration of one month after the death of such person.

Residence of servant's family. 15. It shall not be lawful for any person entering into any contract of service by which it is stipulated that the servant shall himself reside on the premises of the master, to keep his wife and children on the premises of his master, unless when the master shall have also stipulated in such contract that this shall and may be done: Provided, that when the master shall have so stipulated, it shall not be lawful for him to claim the services of any such wife or child, by reason merely of their residence on his premises.

CHAPTER II.

On the Apprenticeship of Children.

Contracts, how to be signed. 1. No contract of apprenticeship shall be valid unless at the time of its being entered into it shall have been reduced into writing, and signed with the name or, in case of illiterate persons, with the mark of the master and parent or guardian, as the case may be, of the apprentice, and also of the apprentice, if of the full age of sixteen years.

Agricultural apprentices. 2. No contract of apprenticeship, by which any child under sixteen years may be apprenticed as an agricultural labourer, shall be valid for any longer period than until such child shall have attained the full age of sixteen years.

Children not destitute, how to be apprenticed. 3. Children, not being in a state of destitution, above the age of ten, and under the age of sixteen years, may be apprenticed by their fathers, or in the case of fatherless children by their mothers, or in the case of orphans having guardians, by their guardians, until they shall have attained their twenty-first year, or for any shorter period; and due provision for the maintenance, clothing, and instruction of every such apprentice shall be made in the contract of apprenticeship: Provided always, that every contract of apprenticeship whereby any child under the age of ten years, not being in a state of destitution, shall be apprenticed, or attempted so to be, shall be null and void to all intents and purposes whatsoever.

Apprentices above sixteen. 4. Any person of the full age of sixteen years or upwards may, by his own consent, be apprenticed for any term not exceeding five years to any trade in the practice of which any peculiar art or skill is required, but not otherwise.

Destitute children to be sent to the Field Cornet, &c. 5. When any parent or parents shall abandon or desert, or by death shall leave in a state of destitution any child under the age of sixteen years, the person with whom such child shall have been so left, or by whom such child shall be found in such a state of destitution, shall, with all convenient speed, deliver the same to the nearest Field Cornet, or directly to the Magistrate, or other proper officer, if the residence or office of such Magistrate, or officer, shall be nearer to the place where such destitute child was so left or found, than is the residence of the nearest Field Cornet, in order that means may be taken for providing for the maintenance and education of such child, by apprenticeship, in manner hereinafter mentioned; and if any person shall be duly convicted, by any Magistrate, or other competent Court, of detaining in his possession or employment, any such destitute child as aforesaid, for a longer period than one month, every such person shall forfeit and pay, at the rate of twenty shillings

for each month that such child shall have been so detained; and every such sum, so forfeited, shall be paid, applied, and accounted for, in like manner as is provided in section 13, of chapter II. of this Ordinance.

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6. Every such child as aforesaid, who shall be delivered up to any Field Cornet, in manner aforesaid, shall, with all convenient speed, be, by such Field Cornet, removed to the residence or office of the nearest Magistrate, or other proper officer, and delivered over to such Magistrate, or other officer as aforesaid; and the said Magistrate or officer to whom any such child shall be delivered over by any Field Cornet, or other person, shall, unless when it shall be made to appear to him that the child is actually not in a state of destitution, or is able to earn his own livelihood—in either of which events he shall decline to act in the case—cause such child to be lodged and provided for at the public cost, until he shall have sufficiently ascertained, by enquiry—which he is hereby required to cause to be made—whether such child have any relative able and willing to maintain and take care of him; and if he shall discover any such relative or relatives, he shall, at his discretion, apprentice such child, either to the sole relative, or to that one, among the several relatives, of whom it shall appear most for the interest of such child to become the apprentice; or he shall apprentice him, as soon as a suitable opportunity can be found, to some other fit and proper person, until he shall have attained his eighteenth year, or, in case of females until their sixteenth year, or for any shorter period that may be deemed advisable, due regard being had to the provisions of the 2nd section of this chapter, as to the time for which alone children may be apprenticed as agricultural labourers.

Field Cornet to send children to Magistrate, &c.

7. Due provision for the maintenance, clothing, and instruction of every destitute child, so apprenticed, shall be made in every such contract of apprenticeship, and suitable wages shall also be therein stipulated for, whenever such Magistrate, or other proper officer, shall deem that the child's service, in any part thereof, will be worth wages, and, in apprenticing every such child, either to a relative or a stranger, it shall be the duty of such Magistrate or officer, to make the best terms he can for such child.

Provision for destitute children.

8. All such contracts, for the apprenticeship of destitute children as aforesaid, shall be drawn up, as near as possible, in the following terms:—

Form of contract.

Form of Contract in apprenticing destitute Children.

“ This contract of apprenticeship of A. B., of (here insert the designation of A. B., as accurately as possible), a destitute child, witnesseth that C. D. (here describe C. D. as the Resident Magistrate, or as the officer specially appointed by the Governor to attest such contracts of apprenticeship for the District, as the case may be), pursuant to the Ordinance No. 2, 1850, in that case made and provided, does, by these presents, apprentice the said A. B., aged _____ years, or thereabouts, to E. F., of (here insert the designation of E. F., as accurately as possible), with him to dwell and serve as an apprentice, until, or for, as the case may be (here insert the age at which the apprenticeship is to determine, or the term for which it is to endure), during all which time, the said apprentice shall faithfully and honestly serve and obey his master; and the said E. F., for himself, his heirs, and executors, does hereby covenant and agree, with the said C. D., for and on behalf of the said A. B., that he, the said

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E. F., shall teach and instruct, or cause to be taught and instructed, the said A. B., in the (here insert the particular trade or occupation), in the best manner that he can, during the said term, and shall also duly provide, or cause due provision to be made, for the education and religious instruction of the said A. B., to the best of his ability; and shall, during the said term, provide the said apprentice with suitable and sufficient food, washing, lodging, and all other things necessary and fit for such apprentice; and shall also pay, as wages, to the said apprentice, the sum of (here insert the terms at which the wages stipulated are to be payable), and also that the said E. F. shall not assign or transfer the said apprentice to any other person, during the said term, without the consent, in writing, first had and obtained, of the Magistrate, or other proper officer, having power and authority to give such consent.

"In witness whereof, we, the said C. D., and E. F., have set our hands, at _____, on this, the day of _____, 18____ (here insert the signatures or marks of the parties), in presence of _____ (here shall be inserted the signatures of at least two witnesses, who have witnessed the execution of the contract)."

Contracts made by one Magistrate to endure in favour of his successor.

9. In case the Magistrate, or other proper officer, by whom the contract, for the apprenticeship of any such destitute child as aforesaid, shall have been entered into as aforesaid, shall, by death or otherwise, cease to act as such Magistrate or officer, then, and in that case, all the provisions and covenants, in such contract of apprenticeship contained, shall endure in favour of the successor of such Magistrate or officer, duly appointed, and such successor shall and may sue upon, and take, all other benefit and advantage whatsoever, of such provisions and covenants, in like manner as if such successor had been himself the person by whom such contract as aforesaid was originally made.

Contracts to be in triplicate.

10. Every such last mentioned contract of apprenticeship shall be made and signed as aforesaid in three parts; one of which parts shall be given to the Master, and one to the apprentice, and the third part shall be filed and registered in the office of the Magistrate, by whom it is attested, or where it shall have been attested, by any other officer, specially appointed as aforesaid, an entry of it shall be made in a book, to be kept by him for that purpose, and the said third part shall be transmitted to the Magistrate of the division in which the master, by whom such contract has been made, usually resides, to be filed and registered in his office.

Consent to assignment of apprentice.

11. No master shall, or may, assign or transfer any apprentice, having been apprenticed as aforesaid, by any such Magistrate or other proper officer, as aforesaid, to any other person, without the consent, in writing, first had and obtained, of the Magistrate or other proper officer of the division in which such master resides; and in case such apprentice shall be of the age of sixteen years or upwards, without the consent of such apprentice himself.

CHAPTER III.

Respecting the effects of the death of the master, or servant, or apprentices; of the insolvency or change of residence of the master; and of the marriage and pregnancy of female servants and apprentices.

Insolvency of master.

1. The death or insolvency of the master of any apprentice shall be a complete discharge of the contract of apprenticeship, unless in

the case of insolvency, by the consent of the apprentice, or his parents or guardians, such contract shall be agreed to be continued. Ord. 2, 1850.

2. The wife of the deceased master of every servant, hired or contracted to perform service as a domestic, is entitled, if she shall so think fit, to claim the services of such servant during the full period of the stipulated term of service, provided she shall consent to perform, and shall perform all the stipulations of the contract in favour of the servant which the master was bound to perform. Widow of master may continue the contract.

3. In the event of the death or insolvency of the master of any child, who, having been in a state of destitution, shall have been apprenticed by a Magistrate or other proper officer, in the manner hereinbefore set forth, it shall be the duty of such Magistrate, or other proper officer, in case such apprentice shall, at the time of the death or insolvency, of his former master, be under the age of sixteen years, and unable to support himself, to re-take the charge and care of such child; and if it shall be deemed expedient to apprentice again the said child for any term within the limits prescribed by this Ordinance for the duration of apprenticeship, to such fit and proper person as such Magistrate or other proper officer, and such child, if of the age of sixteen years or upwards, shall mutually approve of and agree upon: Provided, that when such child has not attained the said age of sixteen years, his consent shall not, in any case, be necessary. Death or insolvency of master of destitute apprentices.

4. No apprentice (save as hereafter provided as to persons apprenticed as destitute children), hired or contracted to perform service at the residence of, or at any particular place of trade or business, occupied by his master, is, in the event of his master's removing his residence or place of trade or business out of the town, or (where such place is not in any town), from the place in which, by the contract, such apprentice was bound to perform his service, to any greater distance than two miles from such town or place where, by the stipulations of the contract, such apprentice is not bound to reside in the house, or on the premises of his master, or to any greater distance than ten miles from such town or place, where such apprentice is bound to reside in the house or on the premises of his master, bound to perform his service at the place to which his master shall have removed his residence, or place of trade or business, without the consent of the parents or guardians of such apprentice; but such consent shall, in all cases, be deemed and taken to have been given, whenever it shall be proved that such apprentice, being one not bound to reside in the house, or on the premises of the master, has performed, at the new residence or place of trade or business, of his master, any service to his master of any kind, which he was bound by the contract to perform; or being one bound to reside in his master's house or premises, has gone to, and remained in, such house, on such premises, for one week after his master's removal thereto; servants not residing on the premises shall be entitled to the same privilege of quitting the service as is extended to apprentices under this section. Removal of master.
Two miles.
Ten miles.

5. The master of any apprentice, who has been apprenticed to him in manner hereinbefore provided, as a destitute child, is entitled, without limitation or restraint, to remove such apprentice to, and to exact the performance of the service stipulated in the contract, wherever such master may have removed his residence, or place of trade or business, within the division of the Magistrate by whom the contract of apprenticeship was made, or filed and registered in manner herein provided; but he is not entitled to remove such apprentice permanently out of the division of such Magistrate, unless he shall first have obtained the consent of such Magistrate; and every Magistrate by whom any Apprentices may be removed to new place of residence or business.

Ord. 2, 1850.

such consent shall be given, shall endorse the same on the third part of the contract of apprenticeship registered and filed by him; and, on such removal taking place, forthwith transmit such third part to the Magistrate of the division to which such apprentice shall be removed, to be by him duly registered and filed, in manner hereinbefore provided.

Servants must go journeys.

6. No servant or apprentice, hired or contracted to perform domestic service, may lawfully refuse to accompany his master, or any of his family by desire of his master, on any journey within this District; or in the course of such journey to perform every such service as by reason of his contract of service or apprenticeship he would be bound to perform in his master's house or on his premises; and no servant or apprentice may lawfully refuse to go on any journey within this District, which his master shall order him to go upon, or in charge of or to drive, herd, tend, or to take care of any carriage, horse, or any kind of cattle, the property or in the lawful possession of or under the lawful control of his master, which such servant or apprentice would, by reason of his contract of service or apprenticeship be bound to ride, drive, herd, tend, take care of or charge of at his master's residence or on his premises: Provided always, that there shall be reasonable grounds for believing that such journey may and will be performed before the expiration of the stipulated term of the service of such servant or apprentice; and that such master shall be bound to provide such servant or apprentice with food and every other thing which may be necessary and proper to enable such servant or apprentice to perform such journey, and to return to the residence or premises of the master before the expiration of the term of service.

Servant or apprentice not bound to go out of the District.

7. No servant or apprentice shall be bound to accompany his master, or to go out of this District, without the consent of such servant, or of the parent or guardian of such apprentice, or where such apprentice is of the full age of sixteen years, without also the consent of such apprentice.

Agreement as to removals.

8. Nothing herein contained shall annul or affect any special agreement or stipulation made in any contract of service or apprenticeship, whereby the servant or apprentice shall be bound to accompany his master, or to go to any place to which the master shall remove his residence or place of trade or business, or order such servant or apprentice to go and there perform the service stipulated in such contract.

Marriage of female servant or apprentice.

9. When any female servant or apprentice shall be lawfully married during the currency of her stipulated term of service, her husband may, at any time subsequent to such marriage, dissolve the contract of service or apprenticeship, and remove his wife from her master's service if he shall think fit so to do; and shall be entitled to claim the wages and other remuneration which may have become due to her for services previously to such removal; the husband of any such servant or apprentice, so removed by him, shall be liable to her master for and in respect of any passage money, costs, and charges incurred in the bringing of the servant or apprentice to the District: Provided, that in case the apprentice shall have been apprenticed as a destitute child, the consent of the Magistrate or other officer by whom she was apprenticed, shall be first had and obtained to such marriage.

Master may dismiss female servant after marriage.

10. The master of any female servant or apprentice who during the currency of her stipulated term of service shall marry, or enter into any state which in this District is or shall be reputed to be the marriage state, shall be entitled, at any time subsequent to such marriage, or reputed marriage, to dissolve such contract and dismiss such servant or apprentice.

11. It shall be lawful for any master to abate, deduct, and withhold a reasonable and proportional part of the wages or other remuneration of any of his servants or apprentices for such days or parts of days as such servant or apprentice shall have been absent from or shall have neglected his service or work without leave, or any other lawful and reasonable excuse for such absence or neglect.

Ord. 2, 1850.
Deduction of wages for absence, neglect, &c.

12. The master of any unmarried female servant or apprentice may, on the pregnancy of such unmarried female servant or apprentice, dissolve the contract of service or apprenticeship; but the master, before being entitled to dissolve such contract, or dismiss such servant or apprentice, shall be bound to pay and satisfy all wages, and every other remuneration which shall have become due to her previously to the date of such dismissal.

Pregnancy of female servant.

CHAPTER IV. (A).

Of the jurisdiction of the Resident Magistrates, &c.

1. The Resident Magistrates within this District have jurisdiction in all cases arising within their respective divisions between masters and their servants and apprentices, and with reference to their relative rights and duties, or to any matter or thing or offence as to which provision is made by this Ordinance: Provided always, that such Magistrates shall have no jurisdiction in any such case wherein the amount of the wages or remuneration or compensation or damages shall exceed the sum of twenty pounds; nor to enforce the performance of any contract of service or apprenticeship the existence or subsistence of which is denied by either of the parties (B), in any case in which the stipulated or alleged term, or the unexpired period of the stipulated or alleged term shall exceed one year; nor to cancel or dissolve any such contract.

Jurisdiction of Magistrates limited.

2. Every Resident Magistrate has jurisdiction in any such case as aforesaid brought before him against any person being at the time within his division, whether the grounds of such case arose within the division or not, or whether the person against whom the case is brought has his usual residence or place of abode in that division or not; but the Magistrate shall, whenever it shall appear to him that any such case can be more conveniently tried or determined by the Resident Magistrate of any other division, dismiss such case; and in the event of his doing so, when the servant or apprentice is accused of desertion, and when he shall have probable cause shown to him, by oath or affidavit of any credible person, for believing this to be the fact, such Magistrate may, if he think fit, issue a warrant for the conveyance under sure custody of such servant or apprentice to the town or place where the Court of such other Magistrate is held; Provided the master shall undertake to pay the expenses of such conveyance in the first instance, the same to be thereafter deducted from the wages of the servant by order of the Magistrate having jurisdiction over the parties.

Magistrate may dismiss case to be tried in another division

Servant to be removed in custody to such a division.

3. On complaint preferred, and proof made, before any Resident Magistrate (c), having jurisdiction over the parties, that any servant or apprentice has refused or neglected to perform his stipulated work, or that he has performed it negligently or improperly, or that, by negligence, or other improper conduct, he has injured the property of his master, entrusted to his care, or that he has behaved to his

Punishment for neglect or improper conduct.

(A) This chapter does not apply to native servants; see Act 40, 1894, s. 1, tit. "MASTER AND SERVANTS (NATIVE)."

(B) See *Whitelaw v. James*, 11 N.L.R. 293.

(C) See Law 18, 1862, s. 1, post; see also *Mali v. Oliver*, 15 N.L.R. 144.

Ord. 2, 1850.

master with violence or insolence, or that he has been guilty of scandalous immorality, or of drunkenness, desertion, or other gross misconduct, the Resident Magistrate may, in his discretion, adjudge the servant or apprentice to any punishment [not exceeding imprisonment for one month, with or without hard labour, and with or without spare diet, or by whipping privately, in prison, not exceeding twelve lashes, or (A)] by fine, not exceeding five pounds.

Penalty for
master's breach
of contract.

4. On complaint preferred, and proof made, by a servant or apprentice, before any Resident Magistrate (B), having jurisdiction over the parties, that his master has not paid the stipulated wages, or delivered the articles, if any, stipulated for in the contract of service or apprenticeship, or that the articles delivered were not of the agreed amount and quality, or that, by the negligence or other improper conduct of the master, the contract of service or apprenticeship has not been by him faithfully performed, or that the master has ill-used the servant or apprentice, the Resident Magistrate may make order for the payment of the wages in arrear, or for the delivery of the stipulated articles, or for compensation to be made to the servant or apprentice, for any injury sustained by such negligence or improper conduct of the master, or by his non-fulfilment of the contract, or by his ill-usage as aforesaid; and if such order be not complied with, according to the exigency and tenor thereof, the Resident Magistrate shall and may issue a warrant for the seizure and sale of the goods of the master, or so much thereof as may be requisite for making such payment or compensation; and it shall be lawful for the officer who shall execute such warrant, or for any other officer, subject to the order and control of such Magistrate, to sell, by way of auction, without taking out any license for that purpose, all such goods as shall have been seized, and shall be sold in execution, and every such officer shall render the overplus, if any, of such sale, to the master, and, failing any sufficient distress, the Resident Magistrate shall, and may, make order for the commitment of the master to prison, for any time not exceeding one month, unless such compensation or payment be sooner made; the Resident Magistrate may also, in any of the cases aforesaid, if he shall see fit, order the contract of service or apprenticeship to be cancelled, either in addition to, or in substitution for, any such order as aforesaid: Provided, that the stipulated or alleged term, or unexpired period of the stipulated or alleged term of service, shall not exceed one year.

Contract may
be cancelled by
the Magistrate.

Servant may
sue *in forma
pauperis*.

5. Where it shall be made to appear to the satisfaction of any Magistrate that any servant or apprentice preferring any such complaint as aforesaid is from poverty unable to pay the costs of any summons or process or the execution thereof, then the said Magistrate shall cause such summons or process to be issued and executed free of all charge and expense whatsoever; and if, upon the investigation of such complaint, such Magistrate shall adjudge and find the same to have been vexatious, it shall be lawful for such Magistrate, if he shall think fit, to commit the complainant to prison, with or without hard labour, for any time not exceeding fourteen days, or to forfeit to his master any part of his wages, not exceeding one month's wages, or to both such imprisonment and forfeiture.

Vexatious
complaints.

Appeal or
review.

6. In any case between a master, and his servant or apprentice, in which the Resident Magistrate shall have given judgment in favour of such servant or apprentice, and such master shall appeal from such judgment, or apply to have the same reviewed, it shall be the duty of the Crown prosecutor to appear for, and conduct the case of such servant or apprentice, free of all charge and expense whatsoever.

(A) Words in brackets repealed by Act 13, 1898, post. (B) See note (c) p. 10, ante.

CHAPTER V.

Ord. 2, 1850.

Definition and punishment of unlawful interference with servants or apprentices, in order to prevent them from entering into, or completing, contract of service or apprenticeship.

1. Any person who shall, by violence to the person or property, or by threats, or intimidation (A), or by molesting, or in any way obstructing another, force or endeavour to force, any servant or apprentice to depart from his service or work, or to return his work to his master before the same shall be finished, or to prevent, or endeavour to prevent, any servant, or other person, not being hired or employed, from hiring himself to, or accepting, service or work from any person; or force [or induce (B)] or endeavour to force [or induce] any such servant or apprentice, or other such person, to belong to any club or association, or contribute to any common fund; or shall use or employ violence to the property of another, or threats of intimidation; or shall molest, or in any way obstruct another, on account of his not belonging to any particular club or association, or not having contributed, or having refused to contribute, to any common fund, or to pay any fine or penalty, or on account of his not having complied, or of his refusing to comply, with any rules, orders, resolutions, and regulations, made to obtain an advance, or to reduce the rate of wages, or to lessen or alter the hours of working, or to decrease or alter the quantity of work, or to regulate the mode of carrying on any manufacture, trade, business, work, or labour, or the management thereof; or who, by any such violence, threats, intimidations, molestation, or obstruction, shall force, or endeavour to force, any manufacturer, or person carrying on any trade, business, work, or labour, or engaged in agriculture, to make any alteration in his mode of regulating, managing, conducting, or carrying on the same, or to increase, or to limit the number of his apprentices or servants, shall, on conviction thereof, before any Resident Magistrate, or other competent Court, be imprisoned, with or without hard labour, for any period not exceeding three months.

Unlawful interference with the servants of others.

Clubs, &c.

2. Any person who shall directly, or indirectly, by the offer of higher wages, or greater benefits, or otherwise, induce any servant or apprentice to leave his service, shall, on conviction thereof, before any Resident Magistrate, incur and be liable to a fine not exceeding ten pounds; and, in default of payment, to imprisonment, with or without hard labour, for any period not exceeding three months.

Enticing servants.

3. Provided always, that nothing herein contained shall extend to subject to punishment any persons who shall meet together for the sole purpose of consulting upon, and determining, the rate of wages or prices, which the persons, present at that meeting, or any of them, respectively, shall require or demand for his or their service or work, or shall pay his or their servants or apprentices for their service or work, or who shall enter into any agreement, verbal or written, among themselves, for the purpose of fixing the rate of wages or prices, which the persons entering into such agreement, or any of them, shall require or demand, for his or their service or work, or pay to his servants or apprentices for their service or work, or of fixing the number of hours of work which he or they will work, or will require his or their servants or apprentices to work in any manufacture,

Meetings to consult on rates of wages.

(A) As to "intimidation" see the judgments in *Gibson v. Lawson* and *Curran v. Treleven*, 2 Q.B. 545; 61 L.J. M.C., 9; 65 L.T. 573. But it will be observed that the English Act governing

this matter is differently framed to the Natal Ordinance.

(B) The words "or induce" are deleted by Act 13, 1896, post.

Ord. 2, 1850. trade, business, labour, or agriculture, and that no such persons, so meeting together or entering into any such agreement as aforesaid, shall be liable to any penalty or prosecution for so doing.

CHAPTER VI.

Respecting the character given, or to be given by masters to their servants and apprentices.

Servants' characters.

1. No master is bound to give a character to any servant or apprentice who is or has been in his service, or to assign any reason for refusing to give it.

Liability of person giving false character.

2. Every master who shall knowingly have given any false character of any servant or apprentice is liable to make compensation for any loss or damages which any third party, who, by reason of such character so given has been induced to take such servant or apprentice into his service, has sustained by the misconduct of such servant or apprentice in any respect, or with reference to any matter to which such character so given was false.

Forging characters.

3. Every person who, for the purpose of giving a character to any servant or apprentice, or other person intending to offer himself to be hired as a servant, shall forge or counterfeit and utter any certificate of such servant's or apprentice's character, or shall falsely personate any other person, and, as such, either personally or by writing give any false, forged, or counterfeit character, of any such servant, apprentice, or other person offering or intending to offer to hire himself as a servant; and every person who shall offer to hire as a servant asserting or pretending that he has served in any service in which he has not actually served, or with a false, forged, or counterfeit certificate of character, or shall in any wise add to or alter, by effacing or erasing or inserting any word or date, in any certificate given to him by his present or any former master, or by any other person duly authorised by any such master to give the same, and shall use or attempt to use the same as an inducement to hire him, shall, on conviction thereof, incur and be liable to a fine not exceeding fifty pounds nor less than ten pounds, or to be imprisoned for any period not exceeding one year nor less than one month, or to both such fine and imprisonment.

CHAPTER VII.

Regulations for the better protection of servants and apprentices.

Notice of deaths of servants, &c.

1. Every master having in his service any servant or apprentice shall forthwith give notice to the nearest Fieldcornet of the death of any such servant or apprentice, and of the death of any of his children or relatives residing on the premises, setting forth their several names and ages; and shall in like manner give notice of any births that shall take place by or in the family of any such servant or apprentice on his premises, setting forth the sex of the child, the mother's name, the name of the child (if any); and every master who shall neglect to give such notice of any such death or birth as aforesaid shall forfeit and pay the sum of ten shillings sterling for every death or birth neglected to be so reported.

Half-yearly return of deaths

2. Every Fieldcornet shall make a half-yearly return to the Civil Commissioner of the division to which he belongs of the deaths and births within his Fieldcornetcy so reported to him in manner aforesaid.

3. And be it further enacted, that this Ordinance shall take effect from and after the publication thereof in the "GOVERNMENT GAZETTE" of this District (A). Ord. 2, 1850.
Commencement

Ordinance No. 13, 1852. (B)

"For amending the Ordinance No. 2, 1850."

[22nd November, 1852.]

WHEREAS it is expedient to alter and amend certain of the provisions of the Ordinance No. 2, 1850, entitled "An Ordinance for regulating the relative rights and duties of Masters, Servants, and Apprentices:"

BE IT THEREFORE ENACTED by the Acting Lieutenant Governor of the District of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

1. The first section of the first chapter of the Ordinance aforesaid shall be, and the same is, hereby repealed. Repeal.

2. No contract of service made beyond the limits of this District, shall have any force or effect unless reduced to writing, and confirmed by the parties thereunto, before any Resident Magistrate, or Assistant Resident Magistrate, in this District; in which case such contract shall have force and effect in this District for the term therein stipulated: Provided such term shall not exceed the period of three years from the day on which the servant shall have entered the District. Contracts made out of District.

3. All contracts of service, which shall have been made in writing, in any country or place in Europe, according to any law in force within such country or place, with any servant born in Europe, shall have force and effect within this District, in so far as the stipulations contained in such contract are not contrary to the provisions of the Ordinance No. 2, 1850 (c), and provided that no such contract shall endure, or be in force, for a longer period than three years from the day on which the servant shall have been landed in the District. What contracts binding, and for what term.

4. Any Resident Magistrate, or Assistant Resident Magistrate, may, when the contracting parties are both within the District, and testify their consent thereto before the said Resident Magistrate, or Assistant Resident Magistrate, amend any contract entered into out of this District, which may be at variance with the provisions of the said Ordinance No. 2, 1850, in any case in which such contract may, in other respects, appear manifestly equitable; and any such contract, when so amended, shall be as valid, to all intents and purposes, as if entered into before such Resident Magistrate, or Assistant Resident Magistrate, under the provisions of the said Ordinance No. 2, 1850. Magistrate may amend contract by consent of parties.

5. This Ordinance shall commence and take effect from and after the date of the promulgation thereof in the "GOVERNMENT GAZETTE" (D). Commencement

(A) March 26, 1850.

(B) See Law 13, 1859, s. 24, tit. "IM-MIGRATION (SPECIAL)," as to conflict with that Law.

(C) See *McNamara v. St. George*, N.L.R. 1863, p. 28.

(D) Confirmed; see Proc., July 14, 1853.

Law No. 18, 1862.

“To declare the Law in respect to Ordinance No. 2, 1850.”

[13th August, 1862.]

WHEREAS it is expedient to declare the Law in respect to Ordinance No. 2, 1850, entitled “Ordinance for regulating the relative rights and duties of Masters, Servants, and Apprentices:”

BE IT THEREFORE ENACTED by the Lieutenant Governor of the Colony of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

Explaining the words “on complaint preferred and proof made before any Resident Magistrate.”

1. That the words “on complaint preferred and proof made before any Resident Magistrate,” occurring in the third and fourth sections of the fourth chapter of said Ordinance, shall be construed to mean verbal or written complaint preferred by, or on behalf of, either the master or the servant, as the case may be (A), and proof made thereof, and shall not be construed to mean that any writ or summons is required before such Magistrate can hear or determine any such complaint: Provided that any Resident Magistrate may, on sufficient grounds to him appearing, direct any complaint to be proceeded in by the previous issuing of a summons.

Want of form, error or omission not to set aside judgment.

2. No judgment or order, or other proceeding of any Resident Magistrate or Justice of the Peace under this Law, shall be quashed or annulled for want of form, or be impeached or affected by reason of any mistake, defect, error, or omission in the same: Provided such judgment, order, or other proceeding, be, in substance and effect, in conformity with and according to the true intent and meaning of Ordinance No. 2, 1850.

Conviction not to cancel contract of service.

3. No conviction under Ordinance No. 2, 1850, against a servant or apprentice, shall have the effect of cancelling the contract of service or apprenticeship.

Commencement

4. This Law shall take effect from and after the promulgation thereof in the “GOVERNMENT GAZETTE” (B).

Law No. 23, 1865.

“To facilitate the determination of Complaints between Masters and Servants.”

[24th August, 1865.]

WHEREAS it is expedient to afford greater facilities than now exist for the hearing and determining of Complaints by Masters or Employers against their Servants and Apprentices, and by Servants and Apprentices against their Masters or Employers, and for this purpose to enable the Lieutenant Governor to appoint from time to time as to him shall seem fit persons to administer and carry out some of the powers and authorities conferred on the Resident Magistrates of this Colony by the Ordinance No. 2, 1850, but so as to ensure the inhabitants of the Colony easy access to the persons so appointed by reason of their nearer residence to them than to the seat of the Resident Magistrate:

BE IT THEREFORE ENACTED by the Lieutenant Governor of the Colony of Natal, by and with the advice and consent of the Legislative Council thereof, as follows:—

(A) See *Mali v. Oliver*, 15 N.L.R. 144.

(B) August 19, 1862.

1. The Lieutenant Governor may, by writing under the hand of the Colonial Secretary, authorise and appoint any person residing in any part of this Colony to carry out and administer the provisions of the first, third, and fourth chapters of the Ordinance No. 2, 1850, entitled, "Ordinance for regulating the relative rights and duties of Masters, Servants, and Apprentices," and the provisions of Law No. 18, 1862, entitled "Law to declare the Law in respect to Ordinance No. 2, 1850." Law 23, 1865.
Governor may appoint any person as judge in cases of Master and Servant.
2. Every person so appointed shall have all and singular the jurisdiction and powers as are by the said Ordinance No. 2, 1850, vested in any Resident Magistrate by the provisions of the first, third, and fourth chapters of the said Ordinance and by Law No. 18, 1862, aforesaid, in precisely the same manner, to all intents and purposes, as are now vested in any Resident Magistrate: Provided always that in no case shall the person so appointed inflict the corporal punishment of whipping included among the punishments authorised under Ordinance No. 2, 1850, chapter four, section three. Such person to have powers of Resident Magistrate.

Except as to corporal punishment.
3. The Lieutenant Governor may, by Proclamation, define the limits within which any person so appointed by him shall exercise the powers conferred under this Law, and may from time to time alter or change such limits: Provided always that nothing herein contained shall prevent the complainant in any case from bringing his complaint before the Resident Magistrate of the County or Division in which the complainant may be resident or may be in service. Governor may define jurisdiction.

Magistrate's jurisdiction reserved.
4. The Lieutenant Governor may, at any time, withdraw the appointment of any such person, and thereupon the powers and authorities of such person under this Law shall cease. Governor may withdraw appointment.
5. The Lieutenant Governor may in such letter of appointment direct that the person so appointed shall, so long as he shall hold such office, exercise the power and authority of a Justice of the Peace under Ordinance No. 6, 1846. Such person may be appointed a Justice of Peace
6. Every such person shall keep true records in writing, according to the forms prescribed for Resident Magistrates, of the evidence and proceedings and of his judgment and decision in every case of complaint by a Master or Employer against his or her Servant or Apprentice and "vice versa" by any Servant or Apprentice against his or her Master or Employer. Must keep written records of cases.
7. Every person so appointed shall at the end of every month transmit to the Attorney-General the record of cases adjudicated upon by him during such month, and in every case when called upon the evidence taken by him in any such case: Provided always that the Attorney-General may at any time call upon any person so appointed for the record of any case and the evidence adduced at the hearing thereof. Records to be transmitted to Attorney-General.
8. Every person appointed by the Lieutenant Governor under the provisions of this Law shall, for the purpose of carrying out the objects of this Law, have authority to issue summonses or warrants under his hand and cause the same to be served and executed by such officer or officers as he may think proper to employ for such purposes, and every such officer so employed may perform the same duties as are performed by the Messenger of the Court of the Resident Magistrate or by any Constable. May issue summonses and warrants.
9. The rules of the Resident Magistrate's Court shall apply in all cases, as far as practicable, where it shall be requisite for the person appointed under the provisions of this Law to observe any rule as to forms of documents and time and mode of procedure and service. Rules of Resident Magistrate's Court to apply.
10. Any warrant issued under the hand of the person appointed under the provisions of this Law shall have the same effect as any warrant of the Resident Magistrate of the County would have. Effect of warrant issued.

Law 23, 1865.
Commencement

11. This Law shall commence and take effect from and after promulgation thereof in the "GOVERNMENT GAZETTE" (A).

Law No. 15, 1871. X

"To facilitate the obtaining of labour."

[28th November, 1871.]

WHEREAS it is expedient that Masters and Servants should have greater facilities for entering into contracts with each other, that servants should have better opportunities for obtaining employment, and that when more servants are wanted they may be obtained from neighbouring countries, and for that purpose to repeal a portion of Law No. 13, 1859, and make suitable provisions in this Law:

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

1. That Law No. 13, 1859 (B), shall be, and the same is hereby repealed, as far as regards the introduction of laborers overland.

Partial repeal of Law 13, 1859.

Employer's bonus to laborer (where agreed to be paid) to be received by officer attesting contract,

2. When and so often as it shall be stipulated as a condition of any contract of service, that any sum of money shall be paid as a bonus by the employer to any laborer before, or at the time of, signing the contract of service, the Resident Magistrate or other officer empowered thereto shall be required to receive on account of such laborer, such sum of money, or such part thereof, as he may be requested by the contracting parties to receive. All such contracts shall be duly registered by the Resident Magistrate or other officer as aforesaid in a book to be kept for that purpose.

and deposited in Government Savings Bank.

3. All such sums of money so received as aforesaid shall be deposited with the Resident Magistrate of the district, and be paid by him into the Government Savings Bank, to be invested at interest, for the purpose hereinafter mentioned.

How subsequently dealt with.

4. That on the expiration of the term of the said contract, the Resident Magistrate shall, on the application of the servant, pay over to him the amount of the bonus, with interest then due thereon, provided no objection thereto shall have been previously given, in writing, to the Resident Magistrate by the said master.

In event of dispute between master and servant, Magistrate may decide as to awarding bonus.

5. If any dispute should arise between the said master and the said servant, and such dispute be referred to the Resident Magistrate for adjudication thereon, and if the Resident Magistrate should annul the contract of service, or if, at the expiration of the contract time, the master should object to the servant receiving the bonus and interest as aforesaid, the Resident Magistrate shall decide whether the said sum of money and interest, or how much thereof, if any, shall be paid to the said servant; and whatever amount is not paid to the said servant shall forthwith be paid to the said master: Provided that the receipt of such money by the said master, shall not in any way interfere with his right of action at law for damages caused by breach of contract.

Requisitions for servants may be made to Resident Magistrate.

6. That any person in want of servants may make application, in writing, to the Resident Magistrate of the district in which such person resides, and such application shall state what number of servants are required by such person, for what period, and at what rate of wages he wishes to hire them: And the Resident Magistrate shall enter such application in a book to be kept for that purpose.

(A) August 29th, 1865.

(B) See tit. "IMMIGRATION (SPECIAL)."

7. On receipt of any such application by any Resident Magistrate, he shall take sufficient steps to inform the natives residing in his district that they can obtain employment on making application at his office. **Law 15, 1871.**
Magistrate shall inform natives.

8. That when a servant makes application for employment to a Resident Magistrate, such application shall be entered by the Resident Magistrate in a book to be kept for that purpose: And the Resident Magistrate shall cause the said servant to be told the names of the persons who have made application for servants, and the conditions on which such persons wish to engage servants. **Servants' applications to be entered.**

9. That returns shall be sent, on the first day of each month, or as near thereto as possible, by the Resident Magistrate to the Colonial Secretary, stating the number of servants who have applied for masters and the number of masters who have applied for servants, and stating also how many masters and servants have entered into contracts during the month. **Labour Returns.**

10. Should such return show that the applicants for labor or for servants are in excess of the supply at more than one of the Resident Magistrate's offices, the Colonial Secretary shall forthwith publish in the "GOVERNMENT GAZETTE," and in each of the newspapers, a statement showing at which of the Resident Magistrates' offices such excess exists, and to what extent, and each Resident Magistrate shall on application supply to masters and servants all information in his possession respecting such excess of applications for labor or for servants, as the case may be. **Where supply and demand unequal at more than one Magistracy, statement to be published.**

11. When the returns from the Resident Magistrates show a considerable deficiency of servants, it shall and may be lawful for the Lieutenant Governor to introduce the required number of servants from the countries beyond the borders of the Colony, and provide for the return of such servants to their respective countries, provided such servants shall have worked not less than one year in Natal. **When servants may be introduced from beyond borders.**

12. One calendar month before sending for such servants the Lieutenant Governor shall cause to be announced, once in the "GOVERNMENT GAZETTE," and once in all the local newspapers, his intention to send for such servants. **Notice of intention to introduce servants.**

13. That special application may be made to the Resident Magistrate by such employers as wish to have such servants sent for as before provided, such applications to be made by form, as in schedule A hereunto annexed; and it shall not be lawful for the Resident Magistrate to register such application unless he receives therewith a sum of ten shillings for each servant applied for in such application, which sum may be expended in the introduction of such servants, but such sum, or any portion thereof, not being so expended, shall be, within six months from the time of such application, returned to the said applicant. **Special applications.**

14. Before any of the said applications are complied with the said master making such applications shall sign an undertaking, in the form provided in schedule B, hereunto annexed. **Undertaking to pay expenses.**

15. It shall and may be lawful for the Lieutenant Governor to grant a license, free of charge, to such persons as he may approve, to introduce laborers overland from countries beyond the borders of the Colony, on application being made to the Secretary for Native Affairs to that effect, and such license shall state the rate of wages to be given. Any person so introducing laborers from beyond the borders of the Colony, without such written permission, shall be liable, on conviction, to a penalty not exceeding Fifty Pounds, or, **License to introduce laborers overland.**

Law 15, 1871. in default thereof, to imprisonment for a period not exceeding four months (A).

Status of laborers introduced under license.

16. Any laborers introduced into the Colony under the license of the Lieutenant Governor shall, as soon as they have entered the Colony, and until they shall have entered into contracts of service in manner hereafter provided, be considered the servants of the persons so introducing them, and shall come under the provisions of Ordinance No. 2, 1850, except as affected by the provisions of this Law.

Conduct of laborers to Magistracy.

17. Each person so introducing such laborers shall proceed to the office of the nearest Resident Magistrate, who, on the application of such person, shall furnish, at the expense of such applicant, as many native messengers as may be deemed necessary for the safe conduct of such laborers to the office of the Resident Magistrate of the county in which their services are required, and such laborers may enter into a contract of service with the person for whom they have been introduced under Ordinance No. 2, 1850, before the Resident Magistrate last mentioned.

Laborers introduced by Government.

18. The two last preceding clauses shall also apply to laborers when introduced overland by the Government.

Compensation to be made to introducer if laborer contracts with another person.

19. If any laborer or laborers, after being brought to the Office of the Resident Magistrate of the District in which his or their labor is required, should choose to enter into the service of any employer other than those who agreed with the agent for their introduction, such employer shall be bound to pay to the aforesaid agent such cost of introduction as shall have been previously agreed upon, and, in addition, ten per cent. upon such cost, to be paid to the person or persons who agreed with the agent for the introduction of such laborer or laborers but have not obtained the number or proportion agreed upon.

Contracts to supply native labor in lieu of land-rents, requisites of

20. And whereas it is further necessary to provide for the regulation of cases in which labor is agreed to be supplied in lieu of rent by natives residing on lands, the private property of any individual, that when and so often as a contract is entered into to supply other labor than that of the contractor, or in addition to the labor of the contractor, the number of servants to be supplied, the time during which each servant is to be employed, the amount of wages to be paid to each servant, and whether rations are to be given to each servant, shall be specified in such contract (B), and it shall be lawful for a Resident Magistrate to attest such contracts, but the attestation of a Resident Magistrate shall not be necessary to the validity of such contract, or for the validity of any other contract mentioned or contemplated by this Law, but the person contracting to employ the labor specified in any such contract shall, in the absence of any such attestation, be held responsible for reasonable proof that the contract was fully and correctly explained to the other contracting party (C).

Payment of wages.

21. All wages agreed to be paid by contracts under this Law shall be paid to the servant actually working, unless otherwise provided in the contract.

(A) As to introduction of laborers by sea, vide Law 13, 1859, tit. "IMMIGRATION (SPECIAL)."

(B) This is contemplated to be a written contract (*Umyjakenye v. Bernard*, 10 N.L.R. 25).

(C) This sec. must be strictly complied with to entitle party to damages

for breach of contract (*Willis v. Gepu*, 5 N.L.R. 203). Though a labor contract may be had under this sec. rent may be recovered notwithstanding (*Baleka v. Kemp*, 6 N.L.R. 54); see also *Mahlalame v. Wood*, 18 N.L.R. 46.

22. Any person contracting for a supply of labor as provided for in clause 20 of this Law shall be liable for the whole of the wages he may have contracted to pay, and rations he may have contracted to supply, notwithstanding he may not employ the whole or any part of the labor mentioned in the contract; but should any servant neglect or refuse to offer his or her services at the time specified in the contract, or should be willing to engage him or herself to any other employer, such person shall not be liable to employ or pay wages or supply rations to such servant.

Law 15, 1871.
Liability of person contracting for supply of labor under Sec. 20.

23. The person or persons contracting to supply labor shall be liable for all damages caused by his or their failing to supply the number or class of servants mentioned in such contract at the time specified therein.

Liability of persons contracting to supply such labour.

24. Any action for damages instituted by or on behalf of either of the said contracting parties, in respect of any breach of such contract, shall be instituted and tried in the Court of the Resident Magistrate having jurisdiction, but such action shall not be sustained unless it is commenced within three calendar months from the date when the cause of action arose.

Action for damages under such contracts, when and how instituted.

25. Whenever a contract to supply labor shall be accepted by the owner or occupier of land, in whole or in part, as rent for the use of land by the person contracting to supply such labor, and when damages shall have been awarded, and when the sum so awarded shall not exceed ten pounds sterling, the said sum shall be considered rent and be recoverable as such, and when the sum so awarded shall exceed ten pounds, that amount only shall be considered rent, and the balance may be recovered in the usual way.

Such damages against contractors recoverable as rent to extent of £10.

26. Verbal contracts of service or to supply labor shall not be binding for a longer period than one year, and written contracts of service or to supply labor for a longer period than three years (A).

Duration of verbal and written contracts respectively.

27. Should one or more of the stipulations of any contract entered into for the supply of labor be adjudged illegal, the remaining clauses thereof shall not be thereby invalidated.

Illegal clauses not to vitiate contract.

28. [Repealed by Act No. 49, 1896.]

29. The provisions of this Law shall have full force and effect, anything in Ordinance No. 2, 1850, in Ordinance No. 13, 1852, in Ordinance No. 4, 1855, in Law No. 18, 1862, and in Law No. 23, 1865, to the contrary, notwithstanding.

This Law not to be prejudiced by former Laws.

30. The Lieutenant Governor in Council shall have power to pass, and publish in the "GOVERNMENT GAZETTE," and from time to time to alter, amend, vary, or annul regulations for carrying out the provisions of this Law, which regulations shall, after such publication, have the same force and effect as if verbatim embodied in this Law.

Rules and regulations.

31. The term "Magistrate" occurring in this Law shall mean the Resident Magistrate or Assistant Resident Magistrate and no other, and the term "officer" shall mean any person appointed by the Lieutenant Governor for the purposes of this Law.

Interpretation.

32. This Law shall commence and take effect from and after the promulgation thereof in the "GOVERNMENT GAZETTE" (B).

Commencement

SCHEDULE A.

To the Resident Magistrate of

Schedules.

I hereby request to be supplied with native laborers, with whom I hereby engage to enter into a contract of service before a Resident Magistrate, as provided for by Law No.

(A) See *Umnyakenye v. Bernard*, 10 N.L.R. 25.

(B) December 5, 1871.

Law 15, 1871. , for a period of _____ months, and to each
 Schedules. such servant I hereby engage to pay as wages _____ shillings
 per month, and to give him sufficient rations, subject to the usual
 provisions of the contract aforesaid.

(Signed)

SCHEDULE B.

I hereby promise to pay to the Resident Magistrate of the
 of _____ on account of the
 Colonial Treasurer, for each native introduced from beyond the
 Colony, at my request, when such native shall have entered into a
 contract of service with me for a period of twelve months, such
 expense as may have been incurred in the introduction of such native.

Law No. 17, 1882.

“To amend the Ordinance No. 2, 1850, entitled ‘Ordinance for
 regulating the relative rights and duties of Masters, Servants,
 and Apprentices.’”

[4th September, 1882.]

WHEREAS it is expedient to extend the provisions of the
 Ordinance No. 2, 1850, entitled “Ordinance for regulating the
 relative rights and duties of Masters, Servants, and Apprentices,” so
 as to make the said Ordinance applicable to certain civilians in
 military employ:

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

“Servant” to
 include
 employees of
 military
 authorities not
 subject to
 military law.

1. Every person, not otherwise subject to military law, employed
 as a conductor, driver, leader, labourer, or in any such like capacity
 by the authorities of Her Majesty’s land or sea forces, serving within
 the Colony of Natal, whether such person be employed in or by the
 Commissariat, Ordnance, or any other Department or Branch of such
 Forces, or employed by any officer acting on behalf of any such
 Department or Branch, shall be and is hereby declared to be a person
 within the meaning of the term “servant,” wherever the same occurs
 in Ordinance No. 2, 1850, entitled “Ordinance for regulating the
 rights and duties of Masters, Servants, and Apprentices.” From and
 after the coming into effect of this Law the provisions of the said
 Ordinance shall apply to every such person as aforesaid.

Commencement

2. This Law shall commence and take effect from and after the
 promulgation thereof in the “NATAL GOVERNMENT GAZETTE” (A).

Law No. 12, 1885.

“To amend and alter the Ordinance No. 2, 1850, entitled ‘Ordinance
 for regulating the relative rights and duties of Masters, Servants,
 and Apprentices.’”

[8th October, 1885.]

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

1. [Repealed by Act No. 13, 1898.]

(A) September 5, 1882.

2. The word "Master" in the said Ordinance shall include and mean the Colonial Government of Natal. The word "Servant" shall include and mean all Natives employed from time to time for hire on any description of work by or on behalf of the Colonial Government of Natal (A).

Law 12, 1885.
Meaning of
"Master" and
"Servant" in
Ord. 2, 1850.

3. The said Ordinance No. 2 of 1850 and this Law shall be read and construed together as one Law.

Ord. 2, 1850, and
this Law con-
strued together.
Commencement

4. This Law shall commence and take effect from the date of promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (B).

Law No. 34, 1887 (c).

"To provide for the due interment of servants dying whilst in service, within the limits of any Borough constituted under the Law No. 19, 1872."

[18th July, 1887.]

WHEREAS it is expedient that the obligation of duly interring servants dying within any Borough should be imposed upon their masters in the first instance:

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

1. In the event of the decease, within the limits of any corporate borough constituted under the provisions of Law No. 19 of 1872, of any person being a servant within the meaning of Law No. 2, 1850, during the continuance of such servant's contract of service, and whose body may not be claimed within reasonable time by his relatives or friends, the master of such deceased servant shall cause the body to be decently and properly interred in some place within such borough, which shall have been duly set apart as a place of burial under any regulations duly made in that behalf in such borough.

Person being a
servant within
meaning of Law
2, 1850, and
dying whilst in
service to be
buried under
certain circum-
stances by
master.

2. The cost of such interment as aforesaid shall in the first instance be borne by the master of the deceased servant: Provided, however, that if the deceased should have died possessed of any estate, or entitled to any wages, the necessary cost of such interment shall be a charge by the master against any wages so due, and against the estate of such servant, ranking in the usual order of preference accorded to burials: And provided further that if there shall be any parents or natural guardians of such deceased servant, the necessary cost of interment shall be recoverable by the master from such parents or natural guardians.

Cost of inter-
ment to be borne
by master in
first instance.¹

3. This Law shall commence and take effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (D).

Commencement

Law No. 3, 1891.

"To amend Ordinance No. 2, 1850, entitled, "Ordinance for regulating the relative rights and duties of Masters, Servants, and Apprentices."

[27th June, 1891.]

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

(A) But see Act 40, 1894, sec. 1, tit. "MASTER AND (NATIVE) SERVANTS."
(B) October 20, 1885.

(C) See this Law also, with notes, under tit. "BURIAL."
(D) August 2, 1887.

Law 3, 1891.
Addition to Sec.
12, Cap. I. Ord.
2, 1850.

Liability of
master for cost
of food supplied
in hospital to
servant.

Saving in case
of sickness or
accident
occasioned by
misconduct of
servant.

This Law and
Ord. 2, 1850, to
be read as one.

1. The following provisoes shall be added to Section 12 of Chapter I., of Ordinance No. 2, 1850 :

Provided also that if such servant, being resident on his master's premises, shall be received therefrom into a hospital for the treatment of any sickness or accident, the master shall be bound to pay the hospital for the food supplied to such servant, at a rate not exceeding One Shilling a day in the case of a native or Indian servant, and not exceeding Two Shillings a day in the case of a servant other than a native or Indian. The liability of such master not to extend beyond a period of two months :

Provided, however, that nothing in either of the foregoing provisoes shall be deemed to apply to any case of sickness or accident occasioned by the drunkenness or misconduct of a servant, but such servant, if treated in a hospital for any sickness or accident so occasioned, shall be liable to pay for the cost of his maintenance and treatment therein, and to be sued for such payment.

2. This Law and Ordinance No. 2, 1850, shall be read and construed together as one Law.

Act No. 13, 1896.

“To amend Ordinance No. 2, 1850.”

[1st June, 1896.]

WHEREAS it is expedient to amend Ordinance No. 2, 1850 :

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 :—

Amendment of
Sec 1, Cap. V.,
Ord. 2, 1850.

1. Section 1 of Chapter V. of Ordinance No. 2, 1850, shall be construed as if the words “or induce,” twice occurring in the said section, were deleted.

Act No. 13, 1898.

“To amend the law relative to Masters and Servants.”

[30th June, 1898.]

BE IT ENACTED by the Queen'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 words occurring in Section 3 of Chapter IV. of Ordinance No. 2, 1850, are hereby repealed, that is to say :

“Not exceeding imprisonment for one month, with or without hard labour, and with or without spare diet, or by whipping privately, in prison, not exceeding twelve lashes, or”

2. Section 1 of Law No. 12, 1885, is hereby repealed.

MASTER AND (NATIVE) SERVANTS.

[See "LABOUR TOUTS"; also see Law 15, 1871, tit. "MASTER AND SERVANT."]

Act No. 40, 1894.

"To regulate the relative rights of Masters and Native Servants, and to provide protection for such Servants."

[30th July, 1894.]

WHEREAS it is expedient to regulate the relative rights and duties of Masters and Native Servants, and to provide for the protection of such servants:

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:—

1. Chapters I. and IV. of Ordinance No. 2 of 1850, shall not apply to Native Servants, and all Laws amending that Ordinance shall be construed accordingly.

Certain Laws not to apply to Native servants.

2. In this Act the word "servant" shall mean—

- (a) 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) Natives employed from time to time for hire on any description of work by or on behalf of the Government of Natal.
- (c) Every Native, not otherwise subject to military law, employed as a conductor, driver, leader, labourer, or in any such like capacity by the authorities of Her Majesty's land or sea forces, serving within the Colony of Natal, whether such person be employed in or by the Commissariat, Ordnance, or any other department or branch of such forces, or employed by any officer acting on behalf of any such department or branch.

Interpretation.

The word "master" shall comprise any person employing for hire, wages, or other remuneration, any Native servant. For the purpose of this sub-section the word "master" shall mean and include the Colonial Government of Natal, and any body corporate, company, society or individual.

The words "contract of service" shall comprise any agreement, whether oral or written, whether expressed or implied, which any servant shall have entered into or made, according to law, with a master for the performance of any work or labour of any kind hereinbefore mentioned.

The words "Magistrate" and "Magistrates" shall comprise the Magistrates duly appointed for the different divisions of this Colony, or the persons appointed by the Governor to act as such or any Assistant Magistrate, and any Justice of the Peace having special authority under Section 24 of this Act.

Act 40, 1894.

The words "this Colony" shall be construed and understood to comprise all territories whatsoever, which are dependent on the Colony of Natal, and subject to the Government thereof.

The word "month" means the period of thirty days.

The words "father," "parent," "relative," "husband," and "wife," shall comprise reputed fathers, parents, relatives, husbands or wives, as well as actual parents and relatives, and lawful husbands and wives.

Short title.

3. This Act may be cited as the Master and Servants (Native) Act, 1894.

Commencement

4. This Act shall not come into operation unless and until the Governor notifies by Proclamation in the "GOVERNMENT GAZETTE" that it is Her 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 (A).

CHAPTER I.

On the formation of Contracts, etc.

Duration of contract in absence of special stipulation.

5. Every contract of service, whether oral or written, the term of endurance of which shall not have been expressly specified and limited by such contract, shall, in the absence of sufficient proof to the contrary, be deemed and taken to be for the term of one month from the commencement thereof; save and except contracts for service in any trade or handicraft, whereby it shall not have been stipulated that the servant shall, during the term thereof, reside in the house of or on the premises of the master, which shall be deemed and taken to endure only until the night of Saturday of the week on any day of which it shall have been stipulated that the service shall commence; and contracts for executing any particular piece of work specified in the contract, which shall expire so soon as the work is finished, and when the work is not finished within a reasonable time, may be put an end to by the master, after the lapse of a period of time reasonably sufficient for finishing such work.

Validity of oral contracts; requisites.

6. No oral contract of service shall be valid or binding for any longer term than twelve months from the period fixed for the commencement of the service stipulated for by such contract; and no such oral contract shall be valid or binding in any case, unless it be stipulated in such contract, that the service thereby stipulated for shall be entered upon by the servant, within one month from the date of the contract.

Validity of written contracts; requisites.

7. No written contract of service entered into in this Colony shall be valid or binding for a longer period than twelve months from the date thereof, nor shall any contract for service in writing be valid or binding in any case on any servant, unless the service so contracted for shall be stipulated to commence within the period of one month from the date of the contract, except the contract be signed with the name, or, in case of illiterate persons, with the mark of the contracting parties, in the presence of a Magistrate or Justice of the Peace, who shall satisfy himself by enquiry of the servant that the contract was entered into by the parties voluntarily, and with a clear understanding of its meaning and effect, and shall then and not till then, subscribe such written contract in attestation of that fact.

Limit of duration.

8. No such contract so entered into before a Magistrate or Justice of the Peace shall be valid or binding for a longer period than thirty-six months from the date thereof.

(A) Proclamation of non-disallowance in *Government Gazette* of Oct. 30th, 1894.

9. All contracts of service entered into before a Magistrate or Justice of the Peace, shall be drawn up as nearly as possible in the form of the Schedule of this Act. Act 40, 1894.
Form of contract.

10. No contract of service for a month or any longer period shall be deemed and taken to have expired until at least one month's notice, calculated from, and inclusive of, the day of giving such notice, shall have been given by either of the parties to the other party, unless it shall have been expressly stipulated that no such notice shall be necessary; and when the service shall be a weekly one, a week's notice shall be necessary: Provided that nothing herein contained shall be construed so as to enable any party to any contract of service to determine the same without the consent of the other party, before the expiration of the term of service originally agreed upon. Determination :
notice.

11. When any such notice as hereinbefore mentioned shall have been given by either of the parties to the other, and the master shall suffer the servant to remain, or the servant shall remain in his service after the day on which according to the notice given the contract of service should expire, such notice shall be deemed and taken to have been withdrawn and passed from, and the contract of service shall continue to endure as long, and in like manner, as if no such notice had been given unless it shall have been otherwise expressly and specially agreed between the parties. Waiver of
notice.

12. In all contracts, whether oral or written, by which it is stipulated that the servant shall reside on the premises of his master, and wherein it shall not be expressly provided that the master is not to supply food and lodging, the master shall be deemed and taken to have engaged to provide such servant, and such of his family (if any) as shall have been included in the contract, in manner hereinafter mentioned, with lodging and sufficient food of good and wholesome quality during the continuance of the contract. Food and
lodging.

13. In case of any action for non-payment of wages, due and payable by virtue of any contract of service, being brought before any Magistrate, or other competent Court by any servant, and when the rate of wages at which such contract was made shall not be proved to the satisfaction of such Magistrate or Court, such Magistrate or Court is hereby required to fix the rate of wages at that usually paid in the district or place in which the service for which the wages are claimed was performed, reference being had to the skill and ability of the servant, and to give decree accordingly. Rate of wages.

14. No servant's wages, if contracted for in money, may be paid in kind, or if contracted for in kind, may be paid in money, or in any other than the stipulated kind, except by the express consent of the servant. Payment in
money or kind.

15. When any servant shall, in consequence of any sickness or accident, be rendered incapable of performing his master's service, he shall not be entitled, in the absence of any special provision in the contract, to receive his wages, except such as shall be already due: Provided, however, that the master shall be bound to provide such servant, if residing or being on his premises, with proper and sufficient food during such incapacity of the servant, for a period of two months, when he shall be at liberty to treat and consider the contract of service as determined and rescinded to all intents and purposes whatsoever. Sickness of, or
accident, to
servant.

16. If any servant, being resident on his master's premises, shall be received therefrom into a hospital for the treatment of any sickness or accident, the master shall be bound to pay the hospital for the food supplied to such servant, at a rate not exceeding One Shilling a day. The liability of such master shall not extend beyond a period of two Hospital fees.

Act 40, 1894, months: Provided, however, that nothing in this section shall be deemed to apply to any case of sickness or accident occasioned by the drunkenness or misconduct of a servant, but such servant if treated in a hospital for any sickness or accident so occasioned, shall be liable to pay for the cost of his maintenance and treatment therein, and to be sued for such payment.

Interment of body of servant dying within borough or township.

17. In the event of the decease, within the limits of any corporate borough constituted under the provisions of Law No. 19 of 1872, or any township constituted under the provisions of Law No. 11 of 1881, of any person being a servant within the meaning of this Act, during the continuance of such servant's contract of service, and whose body may not be claimed within reasonable time by his relatives or friends, the master of such deceased servant shall cause the body to be decently and properly interred in some place within such borough or township, which shall have been duly set apart as a place of burial under any regulations duly made in that behalf in such borough or township.

Cost of interment.

18. The cost of such interment as aforesaid shall in the first instance be borne by the master of the deceased servant: Provided, however, that if the deceased should have died possessed of any estate, or entitled to any wages, the necessary cost of such interment shall be a charge by the master against any wages so due, and against the estate of such servant, ranking in the usual order of preference accorded to burials.

Contracts for services of wife and children.

19. All contracts of service stipulating for the services of the wife of any servant, together with those of her husband, shall be made or executed by her in like manner as the same shall be made and executed by her said husband: And it shall be lawful for the father, or, in the event of his death or absence, then for the guardian of any child under the age of sixteen years, to contract for the service of such child, in like manner as such person may contract for his own services; and when such contract shall be in writing, the name and age of every such child shall be clearly set forth and specified in the contract: Provided always, that nothing herein contained shall give to the master of any such parent any claim on the services of any such child beyond the period for which the parent shall be engaged, nor beyond the period when such child shall attain the age of sixteen, nor to the services of any other child of the contracting parent, whether under colour of such last mentioned child having been fed or clothed by the master, or having been born while the parent of such child was in the said master's service, or under any other pretence whatsoever.

Death of husband or father.

20. On the death of any person being at the time, together with his wife and any child, under contract as aforesaid, the contract shall become null and void, with respect to such wife and children, at the expiration of one month after the death of such person.

Residence of servant's family on master's premises.

21. It shall not be lawful for any person entering into any contract of service by which it is stipulated that the servant shall himself reside on the premises of the master, to keep his wife and children on the premises of his master, unless when the master shall have also stipulated in such contract that this shall and may be done: Provided that, when the master shall have so stipulated, it shall not be lawful for him to claim the services of any such wife or child by reason merely of their residence on his premises.

CHAPTER II.

Of the Jurisdiction of the Magistrates in cases between Masters and Native Servants.

General jurisdiction of Magistrates.

22. The Magistrates within the Colony have jurisdiction in all cases arising in their respective divisions between masters and their

servants, and with reference to their relative rights and duties, or to any matter or thing or offence, as to which provision is made by this Act. Act 40, 1894.

23. Every Magistrate has jurisdiction in any such case as aforesaid, brought before him against any person being at the time within his division, whether the ground of such case arose within the district or not, or whether the person against whom the case is brought has his usual residence or place of abode in that district or not; but the Magistrate shall, whenever it shall appear to him that any such case can be more conveniently tried or determined by the Magistrate of any other division, dismiss such case, and, in the event of his doing so, when the servant is accused of desertion, and when he shall have probable cause shown to him, by oath or affidavit, of any credible person, for believing this to be the fact, such Magistrate may, if he think fit, issue a warrant for the conveyance, under sure custody, of such servant to the town or place where the Court of such other Magistrate is held: Provided that the master shall undertake to pay the expense of such conveyance, and the Magistrate by whom the cause shall be ultimately tried and decided shall adjudge by which of the parties the said expenses shall be paid. In what divisions cases may be tried.

24. The Governor may give to any Justice of the Peace special authority under his hand and the seal of the Colony, to exercise jurisdiction between masters and Native servants under this Act, and may at pleasure recall such special authority, and every Justice of the Peace so authorised as aforesaid shall have all the powers of a Magistrate for the purposes of this Act. Dismissal and removal to another division.

25. Every Justice of the Peace exercising authority as aforesaid shall make true records in writing of the evidence and proceedings and of his judgment and decision in each case, and shall at the end of each month forward to the Attorney-General a return showing all cases adjudicated by him, and any further record that may be required. Special jurisdiction to Justices of the Peace.

26. Any servant may be fined any sum not exceeding Two Pounds Sterling, and in default of payment of the same may be imprisoned, with or without hard labour, for any period not exceeding one month, or may in the discretion of the Magistrate be imprisoned, with or without hard labour, for any period not exceeding one month, without the option of a fine, in case he shall be convicted of any of the following acts or instances of misconduct, that is to say:— Duties of Justices of the Peace exercising their authority.

- (1) If he shall, after having entered into a contract, fail or refuse, without lawful cause, to commence the service at the stipulated time.
- (2) If he shall, without leave or other lawful cause, absent himself from his master's premises, or other place proper and appointed for the performance of his work (A).
- (3) If he shall unfit himself for the proper performance of his work, during working hours, by becoming or being intoxicated.
- (4) If he shall neglect to perform any work which it was his duty to have performed, or if he shall carelessly or improperly perform any work which, from its nature, it was his duty, under his contract, to have performed carefully and properly.
- (5) If he shall refuse to obey any command of his master, or of any person lawfully placed by his master in authority over him, which command it was his duty to obey. Offences punishable by fine of £2, or imprisonment for one month.

(A) A native charged under this sub-sec. cannot be found guilty under sub-sec. 5, post. (*Shum v. Unkanku*, 19 N.L.R. 69).

Act 40, 1894.

- (6) If he shall make any brawl or disturbance in or at his master's dwelling-house, or on his master's farm, and after being, by his master or any other person placed by his master in authority over him, desired to desist, shall, notwithstanding, continue making such brawl or disturbance.

Repeated convictions.

27. In case of a second conviction under the last preceding section, or of more such convictions than a second, within the space of six months next after any former conviction, the offender may, in regard to such second or any further conviction, be fined any sum not exceeding Three Pounds Sterling, and in default of payment thereof may be imprisoned and kept at hard labour for any period not exceeding six weeks, and shall be liable during such imprisonment (or so much thereof as the convicting Magistrate shall adjudge) to be kept in solitary confinement with or without spare diet, or on spare diet with or without solitary confinement, subject as hereinafter is mentioned, or may in the discretion of the Magistrate, be imprisoned, with or without hard labour, solitary confinement, and spare diet, as aforesaid, without the option of a fine, and upon a conviction under the next ensuing section of this Act followed within six months by a conviction under the last preceding section, the offender shall be liable to the like punishment, as if both convictions had been had under the last preceding section.

Offences punishable by fine of £3, or imprisonment for two months.

28. Any servant may be fined any sum not exceeding Three Pounds Sterling, and in default of payment, may be imprisoned, with or without hard labour, for any period not exceeding two months, or may be imprisoned without the infliction of any fine, at the discretion of the Magistrate, with or without hard labour, for any period not exceeding two months, and during such imprisonment as in this section is mentioned, may be kept in solitary confinement with or without spare diet, or on spare diet with or without solitary confinement, in case he shall be convicted in any of the following acts or instances of misconduct, that is to say:—

- (1) If he shall by wilful breach of duty, or by neglect of duty, or through drunkenness, do any act tending to the immediate loss, damage, or serious risk of any property placed by his master in his charge, or placed by any other person in his charge for delivery to or on account of his master.
- (2) If he shall by wilful breach of duty, or by neglect of duty, or through drunkenness, refuse or omit to do any lawful act proper and requisite to be done by him for preserving in safety any property placed by his master in his charge, or placed by any other person in his charge for delivery to or on account of his master. But if it shall appear that such servant is able to pay the damage caused by such act or default as in this section aforesaid, it shall be competent for the Magistrate to proceed under the forty-fifth section of this Act.
- (3) If, being employed as a herdsman, he shall fail to report to his master the death or loss of any animals placed in his charge, which he shall allege to have died or been lost, on the earliest opportunity for so doing after he shall have discovered or in the course of duty was bound to have discovered, such death or loss, or if he shall fail to preserve for his master's use or inspection any part or parts of any such animal as he shall allege to have died, which part or parts he shall by his master have been directed to preserve, unless such herdsman

shall prove to the satisfaction of the Court the death of such animals, or if it shall be made by his master to appear that any such animal or animals alleged by him to have strayed away or otherwise become irrecoverably lost, could not, under the circumstances of the case, have become irrecoverably lost without his act or default. Act 40, 1894.

- (4) If, being employed in any capacity other than that of a herdsman, he shall allege the loss of any property placed in his charge by or for his master, and it shall be made by his master to appear that the property in question could not have been lost without his act or default.
- (5) If he shall, without lawful cause, desert from his master's service (A).
- (6) If he shall use any abusive or insulting language to his master, or to his master's wife, or to any person placed by his master in authority over him, calculated to provoke a breach of the peace.
- (7) If he shall, without leave, and for his own purposes, make use of any horse, vehicle, or other property belonging to his master.

29. In case of a second conviction under the last preceding section, or of more such convictions than a second, within the space of six months next after any former conviction, the offender may, in regard to such second or any further conviction, be fined any sum not exceeding Five Pounds Sterling, and in default of payment thereof may be imprisoned and kept at hard labour for any period not exceeding three months, or may be imprisoned, without the infliction of any fine, at the discretion of the Magistrate, with or without hard labour, for any period not exceeding three months, and shall be liable during such imprisonment as in this section is mentioned, or so much thereof as the convicting Magistrate shall adjudge, to be kept in solitary confinement, with or without spare diet, or on spare diet with or without solitary confinement, subject as hereafter mentioned; and upon a conviction under the twenty-sixth section of this Act, followed within six months by a conviction under the last preceding section, the offender shall be liable to the like punishment as if both convictions had been had under the last preceding section. Repeated convictions.

30. No fine paid or period of imprisonment undergone under this Act by a servant shall have the effect of cancelling the contract of service, unless otherwise specially ordered by the Magistrate. Effect of fine or imprisonment on contract.

31. If the master of any servant alleging matter of complaint against such servant for any act punishable under this Act, shall make deposition on oath before a Magistrate, or Justice of the Peace, that he believes (stating the ground of his belief) that in order to secure the appearance of such servant before the Magistrate having jurisdiction to try the case, the apprehension of such servant is necessary, it shall be lawful for such Magistrate or Justice of the Peace to issue his warrant for the apprehension of such servant without any previous warning or summons: Provided, however, that if the master of any servant shall make such deposition maliciously and without reasonable and probable ground for believing the same to be true, such master shall be liable to be fined any sum not exceeding Five Pounds, and in default of payment thereof, to be imprisoned for any period not exceeding one month. When servant may be arrested.

(A) An arrangement by which a father pledged the services and the *lobola* of his daughter for discharge of a debt was not enforced on a charge of desertion (*Zondekili v. McKenzie*, 18 N.L.R. 188).

Act 40, 1894.

Arrest for desertion.

32. If any servant is charged with having, without lawful cause, deserted from his master's service, it shall be lawful for any Magistrate or Justice of the Peace to issue his warrant for the apprehension of such servant without any previous warning or summons.

Punishment of boys by whipping.

33. In every case in which a boy not being over sixteen years of age is convicted of an offence under this Act, the Magistrate shall have power to sentence him to receive a private whipping of not more than fifteen strokes with a cane or rod: Such punishment to be either in addition to or in lieu of any other punishment provided by this Act.

Refusal to resume service after imprisonment.

34. If any servant, whose contract of service still subsists, shall, upon being discharged from prison after undergoing imprisonment under this Act, refuse or neglect, upon his master's request, to resume his service under his contract, he shall be liable to be imprisoned with or without hard labour for any period not exceeding one month, and so on for successive periods, not any of them exceeding one month, until he shall consent to resume, and shall resume his service under his contract; and every such period of imprisonment, or so much thereof as the convicting Magistrate shall adjudge, may be with solitary confinement with or without spare diet, or with spare diet with or without solitary confinement: Provided, however, that no servant shall, under this Act be imprisoned continuously, and without any intermediate resumption of service, under his contract, for longer than six months in all.

Period of unlawful absence and imprisonment to be added to term.

35. The number of days for which a servant may be absent from his master's service by reason of desertion or unlawful absence, or of imprisonment for an offence under this Act, or during which he may be employed in going to, being at, and returning from a Magistracy in connection with an offence proved against him under this Act, shall be deemed to be added to the term of service originally agreed to, and the term of service shall be incomplete until the expiry of all such added days.

Obligation to return to service after imprisonment.

36. Any servant who may be sentenced to imprisonment for an offence under this Act shall return to his master immediately after the completion of the term of imprisonment, and in case he shall neglect to do so he may be convicted of being absent without leave from his master's premises within the meaning of sub-section 2 of section 26 of this Act.

Deduction of fine from wages

37. In any case where a servant shall be fined by a Magistrate and such fine shall be paid by the master, the sum so paid by the master may be deducted from the servant's wages.

Prescription of prosecution.

38. No servant shall be convicted under any of the foregoing sections of this Act unless the master shall lodge his complaint within [one month (A)] next after the day on which he became cognizant of the offence or alleged offence.

Servant may be warned to appear and answer charge,

39. In order to save time and expense, the master of any servant alleging matter of complaint against such servant may warn and order such servant to appear before the Magistrate of the division, on some day and hour to be named by such master, there to answer some certain charge, of the nature of which such complainant shall inform such defendant; and should the defendant fail to attend, in pursuance of such warning, the Magistrate, upon the application of the complainant, and upon proof by affidavit that such defendant received such warning, and received the same a reasonable time before the time fixed for his appearance, and that to the best of the deponent's

(A) The words "three months" are substituted for "one month" by Act. 35 1899, post.

knowledge and belief, such defendant has no lawful cause for not appearing, may issue his warrant for the apprehension of such defendant, in order to the trial of the complaint; and on such trial, and if the servant shall be convicted of the offence with which he shall be charged, the Magistrate may (if he shall be satisfied that the defendant had no good and sufficient cause for failing to attend), in addition to the punishment to which the defendant may be sentenced, adjudge the said defendant to pay to his master such reasonable costs and expenses, not being more than those allowed in criminal cases, to which his master may have been put in consequence of the defendant having failed to attend as aforesaid: Provided, always, that on issuing such warrant as aforesaid, the defendant shall be warned by summons to answer the charges brought against him, and to show cause why he shall not be adjudged to pay such expenses as aforesaid in consequence of his default in attendance.

Act 40, 1894.
and on failure
may be arrested.

Costs.

40. Should any complainant who shall have warned any such defendant as aforesaid to appear as aforesaid himself fail to appear at the time fixed by him for the appearance of such defendant then and there to prosecute his complaint, the Magistrate, upon proof by affidavit that such defendant was warned by such complainant to appear at the said time to answer a charge of a certain nature, shall, unless satisfied that such complainant had a good and sufficient reason for failing to appear at such time, ascertain the distance which such defendant shall have travelled, and the distance which any person or persons shall have travelled, whom such defendant shall have brought with him as witnesses, and shall, upon being satisfied that such witnesses would or might have been necessary for his defence, and after due notice to the complainant, make an order in writing against such complainant for the payment of the expenses of writing against him and his witnesses, if any, at and after the same rate as if each of the said persons had been a witness summoned at the instance of the public prosecutor, and attending to give evidence in the Court of such Magistrate upon a criminal case; and if such complainant shall, upon presentation to him of such order by the person or persons in whose favour the same shall have been made, refuse or neglect to comply therewith, he shall incur and be liable to a fine not exceeding Five Pounds Sterling, and in default of payment of the same to imprisonment, with or without hard labour, for any period not exceeding one month: Provided that one such order may include the expenses of all or any of the persons whose expenses are to be paid, or separate orders may be delivered to one or more of such persons, as may be most convenient.

Failure of
complainant to
appear.

Defendant's
expenses.

41. Notwithstanding anything contained in the 31st and 39th sections of this Act, it shall be lawful for the master of any servant, if he shall have reasonable and probable cause to suspect such servant of having committed any offence against any provision of this Act, to order and require such servant forthwith to proceed in his, the said master's company before the Magistrate having jurisdiction in the place where such master so suspects that such offence has been committed, there to answer a charge of having committed such offence; and any servant who shall neglect or refuse to obey any such order made by his master, having such reasonable and probable cause of suspicion as aforesaid, shall be liable to be arrested by his master without warrant, and conveyed in custody before such Magistrate, to be by him dealt with according to law: Provided that no servant shall be bound or obliged to obey such order as aforesaid, unless or until he shall be informed of the nature of the charge which his master intends to prefer against him.

Servant may be
ordered to
appear before
Magistrate on
suspicion.

Act 40, 1894.

Failure of
servant to
appear after
complaining.

42. Should any servant who shall have complained against his master for or on account of any offence against any of the provisions of this Act, fail to appear at the time fixed by the Magistrate for the appearance of the defendant, then and there to prosecute his complaint, the Magistrate may, unless satisfied that such complainant had a good and sufficient reason for failing to appear at such time, ascertain in the manner in the fortieth section mentioned the expenses and costs which the defendant has reasonably incurred in appearing to answer such complaint, and he shall in the manner in the fortieth section mentioned, and after due notice to the complainant, order the payment by the complainant of such costs and expenses; and if, on the presentation to him of the order therein mentioned by the person in whose favour it is made, such complainant shall refuse or neglect to comply therewith, he shall incur and be liable to the same fine, and in default of payment thereof to the same punishment as is fixed in the fortieth section: Provided that one such order may include the expenses of all or any of the persons whose expenses are to be paid, or separate orders may be delivered to one or more of such persons, as may be most convenient.

Costs.

Merely leaving
to complain,
not unlawful
absence.

43. No servant who shall leave the place of his service for the purpose merely of lodging any complaint which he may have against his master, after leave for that purpose shall have been unreasonably refused, shall by reason only of his so leaving be deemed to have deserted his master's service, or to have in any wise contravened this Act.

Servant sum-
moned under
one section may
be convicted
under another.

44. A servant summoned to answer for an offence alleged in the summons to be in contravention of the twenty-sixth section of this Act, should the proof given in the case show that he is guilty of contravening not the twenty-sixth but the twenty-eighth section of this Act, may be convicted and sentenced according to the evidence; and in like manner, a servant summoned to answer for an offence alleged in the summons to be in contravention of the twenty-eighth section aforesaid, should the proof given show that he is guilty of contravening not the twenty-eighth but the twenty-sixth section, may be convicted and sentenced according to the evidence: Provided, however, that the punishment to be awarded upon a conviction in either of these cases shall not exceed the punishment provided by the said twenty-sixth section: Provided, also, that the servant shall have had in every case sufficient notice of the nature of the charge which he was called upon to answer.

Damage to
master's
property.

45. As often as any property of the master shall be lost or damaged by means of any act or omission of his servant, which act or omission is by this Act declared to be an offence, it shall be lawful for the Magistrate, should he so think fit, and the master shall thereto agree, to ascertain whether such servant is able to make compensation for such loss or damage, and if so, to fix the amount of such compensation, and make such order as to the payment thereof, either at once or by instalments out of wages to be yet earned, or otherwise, as shall seem reasonable and just, and in the meantime, and until default made in such payment, or in the payment of some such instalment, to defer passing sentence upon the party offending; but such Magistrate shall preserve on record the evidence in the case, and, upon application of the master, and proof given, upon oath, of some such default as aforesaid, shall issue his warrant for the apprehension of such servant, and shall pronounce upon him such sentence as, regard being had to the circumstances of the original offence, and to the degree in which such servant has made, or failed to make, the compensation ordered, shall appear equitable and just.

46. As often as the master of any servant who shall be convicted of any offence under this Act, shall desire the cancellation of the contract of service, the Magistrate, should he so think fit, may order the cancellation of the same, and the same shall be cancelled accordingly: Provided that such cancellation shall not prevent the execution of any sentence which the Magistrate may pronounce or may have pronounced upon the offender for his offence. Act 40, 1894.
On request of master, contract may be cancelled upon conviction.
47. As often as any master shall be convicted of wrongly and unlawfully assaulting his servant the convicting Magistrate may, should he so think fit, and should the servant so desire, order the cancellation of the contract of service and the same shall be cancelled accordingly. On conviction of master for assault, contract may be cancelled.
48. As often as the master of any servant shall be convicted of the offence of having, either before or after the expiration of the contract of service, upon demand made and without lawful cause, refused to deliver or permit to be taken away any of such servant's cattle, sheep, goats, or other animals, lawfully remaining or being upon such master's land without reasonable and probable cause for believing that the animals in question were lawfully detained, such master shall be fined any sum not exceeding One Pound Sterling for every animal so unlawfully detained: Provided, however, that the total amount of a fine so payable shall not exceed the sum of Five Pounds Sterling altogether; and in default of payment, he may be imprisoned for any period not exceeding one month; and the convicting Magistrate shall, besides passing the said sentence, give judgment for the delivery of the said animals, and for costs, as in a civil action before the said Court, which costs, if not paid, shall be levied in the same manner as in the 50th section hereinafter directed; but the fact that the contract of service of such servant has not yet expired shall not be deemed or taken to be of itself reasonable or probable cause for such detention: Provided, however, that nothing herein contained shall impair the effect of any express contract of a lawful kind, by force of which the master shall claim a right to detain any such animals as aforesaid. Punishment of master for unlawfully detaining servant's cattle.
49. As often as the master of any servant shall be convicted of the offence of failing, upon demand, to supply or deliver to such servant the food, bedding, or other articles stipulated for in any written contract of service, or of supplying or delivering food, bedding, or other articles not conformable to the said contract, he shall be liable to be fined any sum not exceeding Five Pounds Sterling, and in default of payment to imprisonment for any period not exceeding one month. Punishment for not supplying food, &c.
50. As often as the master of any servant shall be convicted of the offence of withholding the wages of such servant without reasonable and probable cause for believing that the wages so withheld were not really due, he shall be fined any sum not exceeding Five Pounds Sterling, and in default of payment shall be imprisoned for any period not exceeding one month; and the convicting Magistrate shall, besides passing the said sentence, give judgment for the amount of the wages so wrongfully withheld, and for the costs of the proceedings, which costs shall be the same as in a civil case before the said Court; and the said wages and costs shall, if not paid, be levied of the movable property of the master, under and by virtue of a warrant under the hand of the said Magistrate, together with the cost of such levy: Provided, however, that when and as often as the Magistrate shall acquit the master of the aforesaid offence, but shall yet find that wages are due by such master to such servant which have been retained by such master, it shall be lawful for such Magistrate, and he is hereby required, forthwith to give judgment for the amount of wages which Punishment for withholding wages.

Act 40, 1894. he shall find to be due to such servant, and make such order as to the payment of costs, should he award any, by the master, as shall seem to such Magistrate to be in accordance with real and substantial justice.

Cancellation of contract in certain cases.

51. As often as it shall be made to appear to the Magistrate in any case instituted by any master against his servant, or by any servant against his master, that the contract of service has not been faithfully and fairly performed by the respective parties thereto, or either of them, the Magistrate may, should he think fit, at the instance of either of the parties, order the cancellation of such contract of service, and the same shall be cancelled accordingly.

Court fees.

52. As often as any master shall complain against his servant, or any servant shall complain against his master, for or on account of any offence against the provisions of this Act, the process of the Court of the Magistrate for compelling the attendance of the party accused, and of all necessary witnesses shall be instituted at the public charge and without any fees of Court: Provided always, that if at the trial the charge shall appear to have been brought without reasonable or probable cause, the party complaining shall be liable to a fine not exceeding Five Pounds, and also to defray the costs of process and of the witnesses in the case; and in default of payment of such fine and costs, shall be liable to be imprisoned for any period not exceeding one month: Provided also, that such fine may be imposed upon the occasion of such trial, and without any fresh action or proceeding for the recovery thereof (A).

Person charged not to be placed in dock unless already in custody.

53. No master or servant, charged with having contravened any of the provisions of this Act, and who is not immediately before the hearing of such charge in actual custody, shall be compelled to enter the dock or place usually assigned for prisoners under trial in the Court, or shall be otherwise treated as under arrest, during the hearing of such charge.

Prosecution of person employed on public works.

54. In case it may be necessary to prosecute or proceed against any person employed on any of the public works of this Colony for contravening any of the provisions of this Act, such prosecution or proceeding may be carried on by and in the name of any of the officers in charge of the work upon which such servant is employed at the time of such contravention.

Appeals by master; defence of servant.

55. In any case between a master and his servant, in which the Magistrate shall have given judgment in favour of such servant, and such master shall appeal from such judgment, or apply to have the same reviewed, it shall be the duty of the Attorney-General, or the Clerk of the Peace if called on so to do, to appear for and conduct the case of such servant free of all charge or expense whatever, and the Judge presiding at a Circuit Court shall be empowered, upon the motion of any such Clerk of the Peace, to assign counsel to act gratuitously for such servant whenever it may appear fit and proper so to do.

Spare diet and solitary confinement.

56. In regard to the infliction of spare diet and solitary confinement under this Act, the Magistrate shall observe and conform to such regulations and restrictions as shall have been or shall from time to time be issued by the Governor.

Fines.

57. All fines under this Act shall, when recovered, be paid into the public treasury.

Minority of servant no bar to claim.

58. The minority of a native servant shall not bar the prosecution of any claim by such native against the master without the intervention of a guardian.

(A) Master and servant's cases are regarded as of a private nature. Compare, in the case of Indian servants, *Latchmenna v. Regina*, 20 N.L.R. 185.

59. The Governor in Council shall have power to frame rules for regulating the costs and fees to be charged in cases arising under this Act, and providing for the conduct of cases by the Clerk of the Peace where deemed necessary. Act 40, 1894.
Rules.

SCHEDULE.

Form of Contract of Service.

Schedule.

Be it remembered, that on this—day of——in the year of our Lord——, A. B., of——, and C. D., of——, appeared before me, E. F. (Magistrate or Justice of the Peace), and in my presence, signed their names (or made their marks, as the case may be) to the following contract of service: The said A. B. agrees to hire the service of the said C. D., and the said C. D. agrees to render to the said A. B. his service at all fair and reasonable times, and in the capacity of——for——commencing on the—— day of—— instant, and terminating on the——day of——in the year——. And it is further agreed that the said A. B. shall pay to the said C. D., as such servant as aforesaid, wages after the rate of—— by the day (week, month, or year, as the case may be), and that such wages shall be paid monthly (or as the case may be).

(Here add any special agreement compatible with the law, and not adverted to in this form.)

(Signed) A. B.
C. D.

The preceding agreement was signed by the above-named parties in my presence, on the day and year above written, voluntarily, the same being, as far as I am able to judge, understood by them respectively.

(Signed) E. F.,
Magistrate,
(or Justice of the Peace.)

Act No. 35, 1899.

“To amend the Master and Servants (Native) Act, 1894.”

[11th, September, 1899.]

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 “three months” shall be substituted for the words “one month,” occurring in Section 38 of the Master and Servants (Native) Act, 1894.

MASTER, SUPREME COURT.

[See “COURTS (SUPREME).”]

MATRIMONIAL SUITS.

[See “DIVORCE.”]

MEASURES.

[See “WEIGHTS AND MEASURES.”]

MEDICAL PRACTITIONERS.

Act No. 30, 1896.

“ To bring Dentists within the provisions of the Medical and Pharmacy Law No. 37, 1884 (A).

[6th July, 1896.]

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:—

PART I.

Preliminary.

Short title.

1. This Act may be cited as the “ Dentists Act, 1896 ” (B).

Commencement

2. This Act shall take effect on such day as the Governor shall appoint by Proclamation in the “ NATAL GOVERNMENT GAZETTE.”

Meaning of “ Dentist.”

3. In this Act “ Dentist ”, means every person “ bona fide ” engaged in the practice of dentistry or dental surgery in this Colony on or before the first day of May, 1896; either separately or in addition to his practice as a physician, surgeon, or accoucheur, and also every person duly qualified by license and registration under this Act to practise as a dentist within this Colony (c).

“ Medical Council.”

4. For the purposes of this Act, the “ Medical Council ” means the Medical Board or Council as at present established, or any Board, Council, or the like that may hereafter be substituted for the existing Board, or any Medical Board or Council which may be created by virtue of any Act to be hereafter passed, with the dental member added in terms hereafter described in this Act.

PART II.

Dentist to be appointed to Medical Board or Council.

5. To the Medical Board as already constituted by Law or to a Medical Council which may hereafter be constituted, a Dentist registered under this Act shall be appointed by the Governor, and such Dentist shall be consulted upon all business relating to Dentists, and shall be deemed to be a member of the Board or Council as the case may be for the purposes of this Act only. The dental member shall be subject to the rules under which other members, who are, or who may be nominated by the Governor, sit or shall sit.

Persons entitled to be registered under this Act.

6. Every person who on [the first day of May, 1896, (D)] shall have been “ bona fide ” engaged in the practice of dentistry or dental surgery in this Colony, either separately or in addition to his practice as a physician, surgeon, or accoucheur, and also every person duly qualified by license and registration under this Act to practise as a dentist in this Colony, shall be entitled to be registered under this Act.

Certain persons to be admitted to practise as Dentists after examination.

7. It shall be competent for the Medical Council, after examination, to admit to practise as a Dentist any person who, not being within the provisions of Section 6 of this Act, may yet be actually engaged in practice as a Dentist in this Colony at the date of the coming into

(A) Repealed by Act 35, 1896, post.

(B) This Act, Act 35, 1896, and Act 21, 1899, are to be construed together as one Act.

(C) Dentists are exempt from service on a jury. See note (A) to sec. 4 of Law

10, 1871, tit. “ JURIES.”

(D) The date of the taking effect of Act 21, 1899, post, is, by sec. 2 of that Act, substituted for the words in brackets.

force of this Act, and such examination shall be conducted in terms of such rules as may be drawn up by the Medical Council, under Section 9 of this Act. Act 30, 1896.

8. Persons engaged as mechanical assistants to Dentists in this Colony on the first day of May, 1896, and pupils at the same date, whose articles expire on or before the first day of January, 1898, may register as students under this Act, and during the five years next ensuing, namely, until the first day of May, 1901, may present themselves for examination under rules to be drawn up by the Medical Council, and, if approved of after such examination, the Medical Council shall have power to grant registration to such persons under this Act. Persons entitled to register as students under this Act.

9. The Medical Council shall from time to time draw up rules and regulations to be observed by Dentists, and for the examinations provided for in the two preceding clauses of this Act, and shall prescribe and define what diplomas or certificates shall be by the Council considered sufficient qualification as a Dentist. Such rules shall have the force of Law upon receiving the Governor's sanction and being published in the "NATAL GOVERNMENT GAZETTE." Rules,
Diplomas.

10. This Act shall "mutatis mutandis" be read and construed with Law No. 37, 1884, or with any Act that may be hereafter passed repealing the same, as one Act (A). Joint construction.

PART III.

11. There shall be kept in the office of the Colonial Secretary a correct register of the names, addresses, date of admission and qualifications of all Dentists practising in the Colony. Register of Dentists.

12. The covering of an unlicensed person, unless such unlicensed person shall be under the actual personal supervision of a Dentist licensed under this Act, shall subject the coverer upon conviction to a penalty not exceeding Ten Pounds Sterling. Covering an unlicensed person.

13. The extraction of teeth by unlicensed persons shall not be deemed a contravention of this Act, but such extraction of teeth shall not constitute a claim to registration under this Act. Extraction of teeth not a contravention.

14. The Council shall cause to be erased from the Dentists' Register any entry which has been incorrectly or fraudulently made (B). When a person registered in the Dentists' Register has, either before or after the passing of this Act, and either before or after he is so registered, been convicted, either in Her Majesty's dominions or elsewhere, of an offence which, if committed in England, would be a felony or misdemeanour, or been guilty of any infamous or disgraceful conduct in a professional respect, that person shall be liable to have his name erased from the Register by the Governor in Council. The Council may cause enquiry to be made into the case of a person alleged to be liable to have his name erased under this section, and on proof of such conviction or of such infamous or disgraceful conduct, the Governor in Council may cause the name of such person to be erased from the Register: Provided, that the name of a person shall not be erased under this section on account of his adopting, or refraining from adopting, the practice of any particular theory of dentistry or dental surgery, nor on account of a conviction for a political offence out of Her Majesty's dominions, nor on account of a conviction for an offence, which, though within the provisions of this section, does not, Erasure of name from Dentists' Register: causes for.

(A) See note to sec. 1, ante.
(B) According to the case of *Partridge v. Medical Council* (25 Q.B.D. 90; 59 L.J.Q.B. 475; 62 L.T. 787), the erasing is a discretionary act, in respect of

which no action is maintainable against the Council in the absence of malice, although the discretion may have been erroneously exercised.

Act 30, 1896. either from the trivial nature of the offence or from the circumstances under which it was committed, disqualify a person from practising dentistry.

Application of fees. 15. All moneys arising from fees paid under this Act shall be received by the Medical Council, and shall be applied, in accordance with such regulations as may from time to time be made by the Council, in defraying the expenses of such regulations and the other expenses connected with the execution of this Act.

Who may take proceedings on behalf of Council. 16. It shall be lawful for the Secretary of the Council, or any person duly authorised in writing under the hand of the President, to take and institute any civil proceedings on behalf of the Council.

Proof of person being certified under this Act, how made. 17. If in any proceedings, civil or criminal, it shall be material to determine whether any person be or be not in any capacity licensed or certified under this Act, a certificate, under the hand of the Colonial Secretary, to the effect that such person is or is not, as the case may be, duly licensed and registered in such capacity, shall be deemed and taken to be sufficient "prima facie" proof of the fact alleged in such certificate.

Recovery of penalties. Award to informer. 18. All the penalties imposed by this Act shall be recoverable before the Magistrate of the County or Division within which the offence has been committed, and shall be paid into the Colonial Treasury: Provided that the Governor may in any case award the whole or any portion of any penalty imposed and recovered to any person upon whose information the offender was convicted.

19. [Repealed by Act 21, 1899.]

SCHEDULE.

Schedule. Declaration to be made by a person who claims to be registered under this Act on the ground that he was in practice in this Colony on the date prescribed by this Act.

I....., residing at....., hereby declare that I was "bona fide" engaged in the practice of dentistry at..... on the date prescribed by the Dentists Act, 1896, namely, on the first day of May, 1896.

(Signed)
(Witness)

Dated this.....day of.....189.....

Act No. 35, 1896.

"To amend the Laws relating to Medical Practitioners and Apothecaries (A)."

[20th July, 1896.]

WHEREAS it is expedient to amend the Laws relating to Medical Practitioners and Apothecaries:

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:—

(A) As to duties of medical practitioners in Boroughs, in regard to infectious diseases, see Act 22, 1894, tit. "MUNICIPAL CORPORATIONS."

PART I.

Act 35, 1896.

Preliminary.

1. This Act may be cited as the "Medical and Pharmacy Act, 1896." Short title.
2. This Act shall take effect on such day as the Governor shall appoint by Proclamation in the "NATAL GOVERNMENT GAZETTE," but the eighth section thereof shall take effect at an earlier date, to be likewise appointed by the Governor by Proclamation in the "NATAL GOVERNMENT GAZETTE." Commencement
3. In this Act "Medical Practitioner" means any person duly admitted and lawfully entitled to practise in this Colony as a physician, surgeon or accoucheur, and also any person duly qualified by license and registration under this Act to practise as a physician and surgeon within this Colony (A); Interpretation
- "Chemist and Druggist" means any person duly licensed in this Colony as an apothecary or chemist and druggist, and also any person duly licensed under this Act as a chemist and druggist and holding an annual license as a chemist and druggist under Law No. 38 of 1884 (B);
- "Council" means the Natal Medical Council established under this Act;
- "Board" means the Natal Pharmacy Board established under this Act;
- "Poison" means any article, which, under the provisions of Section 33, is deemed to be a poison within the meaning of this Act.
4. The Laws No. 37 of 1884, and No. 4 of 1887, shall be repealed from and after the day appointed in terms of the second section of this Act for the commencement thereof. Repeal.

PART II.

Medical Council and Pharmacy Board.

5. On the day of the taking effect of this Act the Natal Medical Board now established shall cease to exist, and on and after the said day there shall be established in this Colony— Medical Council and Pharmacy Board.
- (a) A body to be styled the Natal Medical Council; and
- (b) A body to be styled the Natal Pharmacy Board;
- both of which shall meet in Pietermaritzburg.
6. The Council shall consist of seven medical practitioners, of whom three medical practitioners shall be nominated by the Governor; and four medical practitioners shall be elected by the medical practitioners of the Colony in manner hereinafter provided. Medical Council.
7. The Board shall consist of one member of the Council who may from time to time be deputed by the Council, and of five chemists and druggists who shall have practised in Natal for three years, or shall have passed the Minor or Chemist and Druggist Examination of the Pharmaceutical Society of Great Britain, and of such five chemists and druggists, two shall be nominated by the Governor, and three shall be elected by the chemists and druggists of the Colony in manner hereafter provided. Pharmacy Board.
8. Members of the first Council or first Board, as the case may be, shall be elected in manner following—

(A) As to exemption of doctors and chemists from service on juries see sec. 4 of Law 10, 1871, tit. "JURIES." (B) Repealed by Act 43, 1898, tit. "REVENUE."

Act 35, 1896.

Election of
Members of
Council or
Board.

- (a) On or before a date or dates, to be fixed by the Governor in Council by notice in the "NATAL GOVERNMENT GAZETTE," every person then duly licensed and registered as a physician, surgeon, or accoucheur (in respect of the election of members of the Council), or a chemist and druggist (in respect of the election of members of the Board), may sign and deliver, to such person as may be appointed by the Governor in Council for the purpose by such notice, a voting paper to the following effect:—

day of _____, 189

Election of Member [or Members, as the case may be], of the Natal Medical Council [or Natal Pharmacy Board, as the case may be],

I vote for _____ of _____ and _____ of _____ to be Members of the Natal Medical Council [or Natal Pharmacy Board, as the case may be], for the period of _____ years, commencing on the _____ day of _____ 189

(Signed)

- (b) The said voting paper may be delivered through the post, but no paper shall be accepted or counted which has not been delivered at the place appointed by such notice as aforesaid before four o'clock in the afternoon of the day fixed by that notice and further, unless the signature to such paper is attested as genuine by some Magistrate or Justice of the Peace.
- (c) Any person entitled to vote at such election may vote for as many candidates as there are candidates to be elected.
- (d) Such person as in sub-section (a) mentioned shall open and count the said written papers and the duly qualified person or persons who shall have the greatest number of votes, shall upon his certificate addressed to the Colonial Secretary be, by notice in the "NATAL GOVERNMENT GAZETTE," appointed member or members of the Council or Board, as the case may be. In case any person so elected shall decline to serve on the Council or Board, as the case may be, the person who shall have obtained the next greatest number of votes shall be elected in his stead.
- (e) In case of an equality of votes the Colonial Secretary shall have a casting vote.

Term of
membership.Removal of
nominated
member.

Resignation.

Election to
vacancy.

First meetings.

9. The members of the Council or Board shall be nominated or elected, as the case may be, for such term not exceeding five years as the Governor shall think fit, and shall specify in such notice as is provided in the last preceding section. The Governor may at will, by notice in the "NATAL GOVERNMENT GAZETTE," remove any nominated member and, at the request of the Council or Board, as the case may be, may, if satisfied that due cause exists for such removal, by like notice remove any elected member. Any member may resign by letter addressed to the President of the Council or Board, as the case may be, and upon the removal, death, or disqualification or resignation of any member, some other qualified person shall be nominated or elected in manner hereinbefore provided for the residue of the said term, but it shall be lawful for the Council or Board, as the case may be, during such vacancy, to exercise the powers hereinafter mentioned.

10. The first meeting of the first Council and the first meeting of the first Board shall take place upon a day or days to be fixed by

the Governor in the notice appointing the elected members as aforesaid, and at such meetings or any adjournment thereof, the Members of the Council and of the Board respectively then present shall elect from among themselves a President of the Natal Medical Council and a President of the Natal Pharmacy Board, and the person elected to either of the said offices shall hold the same during the continuance of his membership of the Council or Board, as the case may be.

Act 35, 1896.

Election of Presidents.

11. The Council and Board respectively may, from time to time, make rules to be approved of and published as in this Act is provided, as to the times of the meetings of the Council or Board, the mode of summoning the same, and the general regulation of business as shall seem expedient, and in the absence of any rule as to the summoning of meetings, the President may summon a meeting of the Council or Board, as the case may be, at such time as to him shall seem expedient, by letter addressed to each member.

Rules of procedure.

12. At every meeting, in the absence of the President, some other member present shall be chosen to act as President, and all acts of the Council or Board shall be decided by the votes of the majority of the members present at any meeting, the whole number present being not less than four in the case of the Council, and three in the case of the Board, and at all meetings the President for the time being shall, in addition to his vote as a member, have a casting vote in the case of an equality of votes.

Procedure; quorum; voting.

13. The Council and Board may each appoint a Secretary, who shall be a member of the Council and Board, respectively.

Secretaries.

14. After the first election of members of the Council or Board respectively, the provisions of the eighth section of this Act, shall, "mutatis mutandis," regulate all future elections of a member or members of the Council or Board, as the case may be, and the persons entitled to vote at any such future elections shall be medical practitioners or chemists and druggists as the case may be, as defined by this Act, and the provisions of this Act shall apply to the Council or Board, and the members thereof respectively, who may hereafter be appointed or elected after such first election.

Future elections

PART III.

Licenses for Medical Practitioners, Chemists, and Druggists.

15. Every person who on the day before the taking effect of this Act, shall have been in this Colony—

Qualification by virtue of previous admission.

(a) Duly admitted and lawfully qualified to practise as a physician, surgeon, or accoucheur;
 (b) Duly licensed as an apothecary, or chemist and druggist;
 shall, notwithstanding the passing of this Act, be entitled to continue to practise or carry on his calling as aforesaid without obtaining the license referred to in the 16th and 20th Sections, as the case may be: Provided that

- (1) The names, addresses, and qualifications of all such persons shall as soon as may be after the day appointed as aforesaid be entered in the register referred to in this Act.
- (2) Every such person shall on and after the said day be amenable to all the provisions of this Act or any law relating to physicians, doctors, surgeons, apothecaries, or chemists and druggists, as the case may be.
- (3) No omission or mistake in any entry which should be made in the aforesaid register in accordance with paragraph (1) of this section shall be deemed to prejudice

Act 35, 1896.

the right of the person in respect of whose name, address, or qualifications such omission or mistake has occurred, to practise as aforesaid if duly licensed and lawfully entitled.

Qualification
for future
admission.

16. On and after the day on which this Act takes effect no person shall be admitted to practise or be registered as a medical practitioner unless he would be entitled to be registered to practise in Great Britain, or shall have obtained a license signed by the Colonial Secretary on the recommendation of the Council. Previously to obtaining such license, such person shall submit his diploma or other certificate of his being duly qualified to practise as a physician and surgeon for the examination and approval of the Council, who may require by sworn declaration before a Magistrate or Justice of the Peace or by other evidence such proof of identity and good character of such person, of the authenticity of such diploma or certificate, and of the right of the holder to practise elsewhere under such diploma or certificate, as they shall deem fit. Any person wilfully making a false statement in such declaration shall be liable to the penalties by law provided for the crime of perjury.

Issue of license
may be ordered
by Supreme
Court.

17. Where the Council have refused to approve of the diploma or certificate submitted in terms of the last preceding section by any person desirous of being registered as a medical practitioner, the Supreme Court, on application made to them by such person, may order that a license be issued to the applicant, in case the Supreme Court shall be of opinion that the Council have not adhered to the regulations in the next section mentioned, and the name of such applicant shall thereupon be entered in the register referred to in this Act: Provided such applicant shall be duly qualified in the terms of this Act.

Rules regarding
diplomas and
certificates.

18. The Council shall by regulations approved of by the Governor in Council and published as in this Act is provided from time to time prescribe and define what diplomas or certificates will be entertained by the Council in any application by any person to obtain a license as a medical practitioner under this Act, and no diploma or certificate shall be included by the Council in such regulations which does not furnish in the opinion of the Council a sufficient guarantee of the possession by the holder of the requisite knowledge and skill for efficient practice as a medical practitioner.

Compounding
of prescriptions
and trading as
a chemist by
medical prac-
titioner.

19. Every medical practitioner may compound his own prescriptions, and any licensed medical practitioner established in a village or place in which, or within five miles of which, no licensed apothecary, chemist or druggist, is or shall be established, may, besides compounding his own prescriptions, keep an open shop, if he should think fit, and sell drugs and medicine by retail: Provided, that a medical practitioner so established shall not be required by anything in this Act to close his establishment upon the subsequent commencement of business in the same place by a chemist and druggist.

Admission of
chemists after
apprenticeship
and examina-
tion.

20. Any person who has attained the age of twenty-one years, and has been duly indentured and served as an apprentice for a period of not less than four years to any regularly licensed medical practitioner or apothecary, or chemist and druggist, in this Colony, or elsewhere, or who can produce satisfactory proof that he has been practically engaged in the compounding and dispensing of medicines on medical prescriptions under a duly licensed practitioner or chemist and druggist for not less than four years, may obtain a license to practise as a chemist and druggist, on passing an examination to the satisfaction of the Board, with the approval of the Governor, in any subjects fixed by the Board. Such examination may be held before

the Board or any members thereof appointed for the purpose by the Board, or such persons as the Board may appoint as examiners in accordance with regulations relative to such examinations to be made by the Board, and to be approved of and published as in this Act is provided. Act 35, 1896.

21. No person shall be admitted as a candidate at such examination unless he shall have satisfied the Board that he is entitled to be examined, and unless he shall have paid such fee for such examination, not exceeding Five Pounds Sterling, as may be prescribed by such rules and regulations as aforesaid. Candidates.
Examination
fee.

22. Any person who holds a certificate or diploma of competency as a pharmaceutical chemist, or as a chemist and druggist from the Pharmaceutical Society of Great Britain, or from any college, society, or Board recognised by the Board under such regulations made, approved and published as aforesaid, may, if otherwise complying with the provisions of this Act and of such regulations, without further examination obtain a license of admission to practise as a chemist and druggist in this Colony. Admission of
chemists on
diploma.

23. All licenses aforesaid issued to chemists and druggists shall be signed by the Colonial Secretary upon the recommendation of the Board. Chemists'
licenses.

24. No person shall be deemed to be disqualified to be duly admitted, licensed, and registered to practise as a medical practitioner, or chemist and druggist, merely by reason that such person is a female. No disqualifica-
tion by reason
of sex.

25. Any person who shall wilfully procure or attempt to procure himself or any other person to be licensed and registered under this Act, by making or producing or causing to be made or produced any false or fraudulent representation, either verbally or in writing, not amounting to the crime of perjury, and every person aiding and assisting him therein, shall, on conviction thereof, be liable to a fine not exceeding Ten Pounds Sterling, or in default of payment thereof to imprisonment not exceeding one month. Falsely procur-
ing registration.

26. [Repealed by Act No. 21, 1899.]

PART IV.

Register of Medical Practitioners and Chemists and Druggists.

27. There shall be kept in the office of the Colonial Secretary a correct register of the names, addresses, date of admission, license, or certificate, and qualifications of all Register.

- (1) Medical Practitioners,
- (2) Chemists and Druggists (A),

and the person appointed by the Colonial Secretary to keep such register shall make entries therein in accordance with information to be from time to time supplied by the Secretary of the Council in respect of medical practitioners and by the Secretary of the Board in respect of chemists and druggists, and shall from time to time erase the names of all registered persons reported to him by the Secretary to the Council or Board as dead, or known to him to have died, and shall from time to time make necessary alterations in the addresses or statements of qualification of the persons registered under this Act. To enable the register to be properly kept, the Secretary to the Council or Board may write and forward a duly registered letter to any registered person addressed to him according to his address on the register, to

(A) This sec. also applies to the Veterinary Surgeons; see Act 21, 1899, Register of Dentists and the Register of s. 8, post.

Act 35, 1896. inquire whether he has ceased to practise or has changed his residence, and if no answer shall be returned to such letter within six months from the sending of the letter, it shall be lawful to erase the name of such person from the register (A): Provided, always, that the same may be restored at the request of the Council or Board, as the case may be, and that the erasure of his name under this section shall not be deemed to disqualify any person duly licensed or certified from practising the profession or carrying on the calling in respect of which such person is duly licensed or certified.

Additions to entries.

28. Every person registered under this Act, who may have obtained any degree or qualification other than the degree or qualification in respect of which he may be registered, may have such other degree or qualification inserted in the register in substitution for or in addition to the degree or qualification already registered at the request of the Council or Board, as the case may be, and on payment of such fee as may be prescribed by regulations made by the Council or Board, as the case may be, and approved of and published as in this Act is provided.

Condition of entry.

29. No degree or qualification shall be entered on the register, either on the first registration or by way of addition to a registered name as in the last section mentioned, unless the Council or Board, as the case may be, be satisfied by the proper evidence that the person claiming is entitled to it, and any entry which shall be proved to the satisfaction of the Council or Board to have been fraudulently or incorrectly made may be erased from the register: Provided, that a record of the reason for every such erasure shall be signed by or on behalf of the Colonial Secretary and kept in the office of the Colonial Secretary.

Improper entries.

Erasure of names of persons disqualified or struck off the roll.

30. The Colonial Secretary may at the request of the Council or Board, as the case may be, cause to be erased from the register the name of any person who either before or after the passing of this Act may have been declared disqualified for practice by, or whose name may have been struck off the roll, register or record of the Hospital, University, College or other body in this Colony or elsewhere from which such person received any diploma, degree, certificate, or other instrument upon the faith of which such person was admitted to practise or obtain a license in this Colony, and thereupon such person shall no longer be deemed to be a medical practitioner, or chemist and druggist, as the case may be: Provided, that the Colonial Secretary, before causing the name of such person to be erased, shall be satisfied that such person has, if possible, had an opportunity of showing cause before the Council or Board, as the case may be, why his name should not be erased from such register.

Erasure of name for misconduct.

31. If any person licensed or certified under this Act shall, after due enquiry, at which he shall have an opportunity of being heard, be judged by the Council or Board, as the case may be, to have been guilty of infamous or disgraceful conduct in any professional or other respect, the Governor in Council may, if he see fit, direct that the name of such person be erased from the register, and that his license be withdrawn and cancelled (B): Provided, that the name of such

(A) See sec. 8 of Act. 21, 1899, post, which adds a clause after the word "register."

(B) Cf. 21 & 22 Vic. c. 90, s. 29, which has been held to extend to conduct of which the practitioner has been guilty before registration (*R. v. General Council of Medical Education and Registration*, 3 E. and E. 525; 30 L.J.Q.B.

201). Held also, that the General Council were the sole judges whether a person had been guilty of infamous conduct, and if they had, *bona fide*, and after due enquiry, directed his name to be erased, the High Court had no jurisdiction to interfere (*Allbutt v. Med. Council*, 23 Q.B.D. 400; 58 L.J.Q.B. 606; 61 L.T. 585; 37 W.R. 771—C.A.)

person may be restored thereafter to the register on the request of the Council or Board, as the case may be, and provided that no person whose name shall be erased from the register under this or the last preceding section shall be deemed, merely by reason that such person shall remain in possession of a license or certificate, to be qualified, licensed or certified to practise the profession or carry on the calling to which such license or certificate relates. Act 35, 1896.

32. Any license or certificate obtained either before or after the taking effect of this Act by means of any false or fraudulent representation or by personation, shall be void, and any person holding or practising by virtue of any such license or certificate shall be liable to the penalties provided by the 26th section of this Act for practising without a license (A). License or certificate improperly obtained to be void.

PART V.

Keeping and Sale of Poisons and Drugs.

33. The several articles named and described in Schedule A to this Act shall be deemed to be poisons within the meaning of this Act, and the Board may from time to time, by resolution, declare that any article in such resolution named ought to be deemed a poison within the meaning of Division I. or Division II. of the said Schedule of this Act, and thereupon such resolution shall be submitted through the Colonial Secretary for the approval of the Governor in Council, and if such approval shall be given, then such resolution and approval shall be published in the "NATAL GOVERNMENT GAZETTE," and on the expiration of one month from such publication the article named shall be deemed to be a poison accordingly within the meaning of this Act. What shall be deemed poisons.

34. If any medical practitioner or chemist and druggist shall suffer such poisons as aforesaid to be kept without due care or shall sell or keep for sale by himself or any apprentice, servant, or agent any medicines or drugs of bad quality, he shall be liable to a fine not exceeding twenty pounds, or in default of payment to be imprisoned, with or without hard labour, for a period not exceeding three months, unless such fine be sooner paid. Careless keeping of poisons, or keeping of medicines of bad quality.

35. Nothing in this Act contained shall be construed as a restriction on the sale of any of the Articles of Commerce set out in Schedule B to this Act annexed: even though any such article may contain some poison mentioned in Schedule A, or preparation thereof. Freedom of articles in Schedule B from restrictions.

36. The Governor in Council may, by Proclamation from time to time, add any Article of Commerce to those in Schedule B mentioned, and any article so added shall be as free from restriction as any article now contained in such Schedule. Additions to Schedule B.

37. Poisons, drugs or medicines, shall not be sold by any person other than a duly licensed apothecary, or chemist and druggist, or the indentured apprentice or "bona fide" assistant of such apothecary or chemist and druggist: Provided, that nothing herein contained shall be deemed to limit the operation of the nineteenth section of this Act; and nothing in this section contained shall prevent the sale of any poison, drugs or medicines in original packages by an importer or general dealer to any other importer or general dealer or to any medical practitioner, dentist, or chemist and druggist, or to a known user of poisons for mining, or manufacturing, or farming purposes. Sale of poisons and drugs or medicines.

38. Every medical practitioner, chemist and druggist, and the indentured apprentice or "bona fide" assistant of such chemist and Conditions of sale of poisons.

(A) See Act 21, 1899, s. 4, post.

Act 35, 1896. druggist, may sell poisons under the following conditions but no other:—

- (a) If the box, bottle, vessel, wrapper or cover in which any poison is contained on delivery to the purchaser be, in every case of sale of such poison, distinctly labelled with the name and address of such medical practitioner or chemist and druggist with the name of the article and with the word "Poison";
- (b) If the sale be by wholesale in the ordinary course of trade or business, on an order in writing signed by the purchaser;
- (c) If the sale be to a person producing the prescription of a medical practitioner prescribing any poison now enumerated or hereafter added to the list of poisons named in Division I. of Schedule A to this Act, in manner provided by the thirty-third section of this Act, and if an entry be made in a book to be kept for that purpose, setting forth the date of sale, the name of the purchaser, and the ingredients and quantities of the prescription;
- (d) If no such prescription by a medical practitioner be produced, if an entry be made in a book called the Poisons Book to be kept for that purpose, in lieu of the ingredients and quantities aforesaid, a statement of the quantities sold and the purpose for which such poison is stated to be required, and if such entry shall, in case the purchaser be known to the seller, and in case the poison sold be a poison now enumerated or hereafter added as aforesaid to the list of poisons named in Division I. of Schedule A to this Act, be, before delivery of the poison, signed by the purchaser, and in case of the purchaser being unknown to the seller also by some person, known to the seller, who shall have introduced the purchaser to the seller.
- (e) If there is a contract for the sale of any poison now enumerated or hereafter added as aforesaid to the list of poisons named in Division I. of Schedule A to this Act, and if the seller shall keep the correspondence from the purchaser relative to such sale, shall make such entry of all particulars as aforesaid in the aforesaid book, and shall either be acquainted with the signature of the purchaser or shall receive and keep a written attestation by some Magistrate, Justice of the Peace, or Minister of Religion of the genuineness of such signature.

Contraventions of enactments regarding sales of poisons or drugs or medicines.

39. Any person convicted of a contravention of any provision of the 37th or 38th Sections of this Act shall be liable to a fine not exceeding Five Pounds Sterling or less than One Pound Sterling, and every medical practitioner, chemist and druggist shall be responsible for every act or default of any apprentice, clerk, servant, or agent in his employment (other than a person entitled to take out an annual license as a medical practitioner, chemist and druggist) in respect of the improper sale of any poison in breach of any provision of either of the said sections, in case the said act or default was due to negligence on the part of such medical practitioner, chemist or druggist in supervising the conduct of such apprentice, clerk, servant, or agent.

Inspection of poisons book.

40. The book kept by every medical practitioner, chemist and druggist, in manner provided by sub-section (d) of the 38th Section of this Act shall be submitted forthwith upon demand for the inspection of the Secretary of the Council or Board, as the case may be, or

of any person authorised by him, in writing under his hand, and any such medical practitioner, apothecary, or chemist and druggist who personally or by any apprentice, clerk, servant, or agent employed by him, shall fail forthwith upon demand to produce such book for inspection, shall be liable upon conviction to a fine not exceeding Five Pounds Sterling. Act 35, 1896.

41. If any person purchasing any poison shall give false information to the seller in relation to the particulars which the seller is authorised to require, or if any person sign as witness to the sale of any such poison to a person unknown to such witness, or if any person fail to comply with any provision of this part of this Act for which no specific penalty is provided, every such person shall upon conviction be liable to a fine not exceeding Five Pounds Sterling. Purchase of poisons on false information. General offences.

42. If no medical practitioner, qualified chemist and druggist be carrying on business within a distance of five miles, it shall be lawful for any shopkeeper to supply drugs or medicines in packages properly labelled and prepared by any chemist and druggist residing in the Colony. Sale of drugs or medicines by shopkeeper, when lawful.

Miscellaneous.

43. It shall be lawful for the Secretary of the Council or Board, as the case may be, or any person duly authorised in writing under the hand of the President, to take and institute any civil proceedings on behalf of the Council or Board. Civil proceedings.

44. If in any proceedings, civil or criminal, it shall be material to determine whether any person be or be not in any capacity licensed or certified under this Act, a certificate, under the hand of the Colonial Secretary, to the effect that such person is or is not, as the case may be, duly licensed and registered in such capacity, shall be deemed and taken to be sufficient "prima facie" proof of the fact alleged in such certificate. Colonial Secretary's certificate to be prima facie proof.

45. The Council shall be deemed to be concerned with and interested in matters arising out of or in connection with so much of this Act as deals with medical practitioners, and the Board shall be deemed to be concerned with and interested in matters arising out of or in connection with so much of this Act as deals with apothecaries and chemists and druggists. Respective provinces of Council and Board.

46. All rules or regulations by this Act authorised to be made by the Council or the Board shall be of legal validity only when approved of, and published by the Governor in Council by notice in the "NATAL GOVERNMENT GAZETTE," and by such regulations penalties for the breach thereof may be prescribed not exceeding in any case a fine of Ten Pounds Sterling. Rules; Publication of; Penalties for breach.

47. No person shall be entitled to recover any charge in any Court of Law for any medical or surgical advice or attendance, or for the performance of any operation as a medical practitioner or commonly performed only by a medical practitioner, or for any medicines which he shall have prescribed or supplied, unless he shall prove upon the trial that he is licensed under this Act (A). Charges not recoverable by unlicensed person.

(A) Cf. 21 & 22 Vic. c. 90, s. 32, which applies whether the patient or some other person is sued (*De la Rosa v. Prieto*, 16 C.B., N.S. 578; 33 L.J., C.P. 262), where it was held that an unregistered practitioner, domiciled in England, could not recover against the medical officer of a foreign ship of war for attending the crew at his request).

According to the decision of the Court of Queen's Bench in *Leman v. Housley*, L.R. 10 Q.B. 66; 44 L.J., Q.B. 22, a plaintiff cannot recover unless he was registered when the services were rendered; but see *Haffield v. Mackenzie*, 10 Ir. C.L.R. 289, and *Turner v. Regnall*, 14 C.B., N.S. 328; 32 L.J., C.P. 164.

Act 35, 1896.

Certain offices may be held only by registered and licensed persons

48. No person shall hold any appointment as a physician, surgeon, or medical officer, or an apothecary or compounder of any medicines, in any hospital or in any lunatic asylum, convict station, house of correction, or other public establishment, or institution, or to any friendly or other society for affording mutual relief in sickness, infirmity, or old age, or as a medical officer of health, unless he be licensed and registered under this Act as a medical practitioner or as a chemist and druggist, as the case may be.

Invalidity of certificates by unlicensed person.

49. No certificate required by any law, now or hereafter in force, from any medical practitioner shall be valid unless the person signing the same be licensed and registered under this Act.

Approval and publication of regulations.

50. All regulations framed under the provisions of this Act shall be approved by the Governor in Council and published thereafter in the "NATAL GOVERNMENT GAZETTE," and shall take effect only after such approval and publication.

SCHEDULE A.

LIST OF POISONS.

Division I.

NOT TO BE SOLD UNLESS

on medical prescription or the purchaser is known, or is introduced by some person known, to the seller;
also

ENTRY TO BE MADE IN POISON BOOK.

1. *Date of Sale;*
2. *Name and address of purchaser;*
3. *Name and quantity of article;*
4. *Purposes for which it is wanted; attested by signature;*

and

MUST, IN EVERY CASE OF SALE, BE LABELLED WITH

1. *Name of Article;*
2. *The word "Poison";*
3. *Name and Address of Seller.*

Arsenic, and its preparations;

Aconite, and its preparations;
Alkaloids: All poisonous vegetable alkaloids and their salts;
Atropine, and its preparations;
Cantharides;
Corrosive Sublimate;
Cyanide of Potassium, and all metallic cyanides and their preparations;
Emetic Tartar;
Ergot of Rye, and its preparations;
Opium, [and its preparations; and preparations of Poppies; (A)]
Prussic Acid, and its preparations;
Savin, and its oil;
Strychnine, and its preparations;
Vermin Killers, if preparations of poisons, the preparations of which are in Division I. of this Schedule.

Division II. (B)

MUST, IN EVERY CASE OF SALE, BE LABELLED WITH

1. *Name of Article;*
2. *The word "Poison";*
3. *Name and Address of Seller.*

Carbolic Acid;
Almonds, Essential Oil of (unless deprived of Prussic Acid).
Belladonna, and its preparations;
Cantharides, Tincture and all Vesicating liquid, preparations of;
Chloroform;
Chloral Hydrate, and its preparations;

Corrosive Sublimate, preparations of;
Morphia, preparations of;
Iux Vomica, and its preparations;
Oxalic Acid;
Precipitate, White (Ammoniated Mercury);
Precipitate, Red (Red Oxide of Mercury);
Vermin Killers (see Division I.):
Compounds containing "Poisons" prepared for the destruction of vermin, if not subject to the provisions of Division I. are in Division II.

(A) Words in brackets are expunged by Act 21, 1899, s. 9, post.

(B) Act 21, 1899, s. 9, post, inserts in this Division the words "preparations of opium and preparations of poppies."

SCHEDULE B.

Act 35, 1896.

Schedule B.

Sheep Dips.
 Medicines for Cattle (not being any of the poisons mentioned
 in Schedule A).
 Patent Medicines.
 Proprietary Medicines.
 Sulphur.
 Saltpetre.
 Sulphate of Iron (Commercial).
 Bluestone.
 Borax.
 Camphor.
 Alum.
 Ginger Root.
 Liquorice.
 Resin.
 Cream of Tartar.
 Tartaric Acid.
 Carbonate of Soda.
 Epsom Salts.
 Glauber Salts.
 Castor Oil.
 Turpentine.
 Raw and Boiled Linseed Oil.
 Sweet Oil.
 Eau de Luce.
 Ammonia.

And all other general articles of commerce which may contain any of the poisons mentioned in Schedule A.

Act No. 21, 1899.

“To amend the ‘Medical and Pharmacy Act, 1896,’ and the ‘Dentists Act, 1896,’ and to regulate the Registration and Practice of Veterinary Surgeons and of Trained Nurses.”

[28th August, 1899.]

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. Section 19 of the “Dentists Act, 1896,” shall be repealed, and in lieu thereof the following shall be deemed to have been enacted, that is to say: Repeal.

No person shall be allowed to practise as a dentist unless he shall first be registered as provided in this Act.

2. The date of the taking effect of this Act shall be substituted for the First day of May, 1896, in the 6th Section of the “Dentists Act, 1896.” Sec. 6, Act 30, 1896, amended.

3. Save as is otherwise provided by Sections 6, 7, and 8 of the “Dentists Act, 1896,” as amended by this Act, no person shall be registered as a dentist unless he shall produce to the Medical Council the diplomas or certificates prescribed and defined under the provisions of Section 9 of the said Dentists Act. Requisite diplomas for registration as Dentist.

Act 21, 1899.
Repeal.

4. Section 26 of the "Medical and Pharmacy Act, 1896," shall be repealed, and in place thereof the following shall be deemed to have been enacted, that is to say:

Persons not registered and licensed as medical practitioners, practising as such or assuming title of, guilty of contravention.

Every person shall be guilty of a contravention of this Act who, not having been duly registered and licensed as a medical practitioner as provided in this Act

- (a) Practises as a medical practitioner, or as a physician, surgeon, or general practitioner; or
- (b) Falsely pretends to be, or takes or uses the name, or exercises the functions, of a physician, doctor of medicine (A), licentiate in medicine or surgery, bachelor of medicine, surgeon, or general practitioner, or any name, title, addition, or description implying that he is licensed or registered under this Act, or that he is qualified to practise as a medical practitioner, or as a physician or surgeon, or in any other such capacity as above set forth (B).

Persons not registered and licensed as chemists, practising as such or assuming title of, guilty of contravention.

Every person shall be guilty of a contravention of this Act who, not having been registered and licensed as a chemist and druggist as provided by this Act

- (c) Practises as an apothecary, or chemist and druggist, or prepares or compounds drugs and medicines, whether from medicinal prescriptions or otherwise, except for private or domestic use;
- (d) Falsely pretends to be, or takes or uses the name or title or functions of an apothecary, or chemist and druggist, or any name, title, addition, or description implying that he is licensed or registered under this Act, or that he is qualified to practise as an apothecary, or chemist and druggist.

Persons not registered and licensed as dentists, practising as such, &c., guilty of contravention.

5. Every person shall be guilty of a contravention of the "Dentists Act, 1896," who, not having been registered and licensed under the said Act

- (a) Practises as a dentist,
- (b) Falsely pretends to be, or takes and uses the name or title, or exercises the functions of a dentist, or any name, title, addition, or description implying that he is licensed or registered under the "Dentists Act, 1896," or that he is qualified to practise as a dentist.

Contraventions, how cognizable.

6. All contraventions of the "Medical and Pharmacy Act, 1896," or of the "Dentists Act, 1896," which are enumerated in this Act shall be cognizable in the Supreme Court or a Circuit thereof, or in the Court of a Magistrate. Every such offence, ~~if prosecuted in the Supreme Court or a Circuit Court,~~ shall be punishable by a fine not exceeding £100, and in default of payment, by imprisonment with or

(A) Cf. sec. 40 of 21 & 22 Vic. c. 90. Under that sec. it was held that the wrongful assumption of the title of Doctor of Medicine, if it appears to have been done under a supposed right, is not an offence (*Ellis v. Kelly*, 30 L.J., M.C. 35).

(B) Held, under the English Act, that the bare fact of a person's name not appearing in the medical register is not sufficient to warrant a conviction. To

warrant a conviction for acting as or pretending to be a surgeon, there must be unequivocal evidence that the party has so acted or pretended; it is not enough that he is so called by persons whom he has attended professionally, in the absence of evidence to shew that he has done so on his own account and for his own profit (*Pedgrift v. Chevallier*, 29 L.J., M.C. 225; 8 C.B., N.S. 246).

- without hard labour for any term not exceeding six months, and if prosecuted in the Court of a Magistrate, shall be punishable by fine not exceeding £20, and in default of payment, by imprisonment with or without hard labour for any term not exceeding three months. Act 21, 1899.
7. No person who is charged with practising as a chemist and druggist shall be acquitted by reason of the fact that he is in the employ of, or is agent for, a person licensed to practise as aforesaid, unless he is under the direct and personal supervision and control of some licensed chemist and druggist. Special defence by person charged with practising as chemist, how restricted.
8. Section 27 of the "Medical and Pharmacy Act, 1896," shall apply to the Register of Dentists and to the Register of Veterinary Surgeons hereinafter provided for, and shall be amended by inserting therein after the words "erase the name of such person from the register," occurring in the twenty-fourth line thereof, the following words:— Amendment of Sec. 27, Act 35, 1896.
- And if the address on the register be insufficient or the address be unknown, a notice published four times in the "NATAL GOVERNMENT GAZETTE" calling upon the medical practitioner, chemist and druggist, dentist, or veterinary surgeon named therein to furnish his address to the Secretary within six months from the date of the first publication, and that in default his name may be erased from the register, shall, for all purposes, take the place of and be as good and valid as if the registered letter hereinbefore provided for had been forwarded to such person.
9. The words "and its preparations, and preparations of poppies," following the word "opium" in Division I. of Schedule A of the "Medical and Pharmacy Act, 1896," shall be expunged, and there shall be inserted in Division II. of the said schedule the following words "preparations of opium and preparations of poppies." Amendment of Schedule A, Division I., Act 35, 1896.
10. The standard of strength and purity of all drugs prescribed by a medical practitioner shall be that of the British Pharmacopœia. Standard of drugs.
11. As soon as may be after the date of the taking effect of this Act there shall be established a body to be styled the Natal Veterinary Board. Natal Veterinary Board.
12. The Natal Veterinary Board (hereinafter called the Board) shall consist of three ordinary members, who shall be veterinary surgeons, appointed in the first instance by the Governor, and two medical practitioners, to be deputed for that purpose from time to time by the Medical Council. Constitution of Board.
13. The provisions of Section 14 of the "Medical and Pharmacy Act, 1896," shall, "mutatis mutandis," regulate all future elections of ordinary members of the Board, and the persons entitled to vote at any such future elections shall be veterinary surgeons registered under this Act. Elections of members of Board.
14. The provisions of Sections 9 to 13 of the "Medical and Pharmacy Act, 1896," shall apply, "mutatis mutandis," to the Board and to its proceedings. Three members of the Board shall constitute a quorum. Proceedings of Board.
15. No person shall be allowed to assume the title of veterinary surgeon or hold himself out to be such unless he shall first be registered as provided in this Act. Veterinary surgeons to be registered.
16. Every person who at the date of taking effect of this Act shall have been "bona fide" engaged in practice as a veterinary surgeon, shall be entitled to be registered under this Act upon his satisfying the Board that he possesses the qualification hereinafter provided for. Persons practising at date of effect of Act.

Act 21, 1899.

Qualification for registration.

17. It shall be competent for the Board to grant registration under this Act to any person who shall produce such certificates or diplomas as shall in the opinion of the Board qualify him for registration as a veterinary surgeon, or who shall satisfactorily pass any examination prescribed by the Board (A).

Regulations may be drawn up by Board.

18. The Board may from time to time draw up regulations to be observed by veterinary surgeons, and for the examinations provided for by the foregoing section, and for the payment of a fee not exceeding Three Pounds Sterling by any candidate for examination; and shall define what diplomas or certificates shall be by the Board considered sufficient qualification as a veterinary surgeon. Such regulations shall have the force of law upon receiving the Governor's sanction and being published in the "NATAL GOVERNMENT GAZETTE."

Register to be kept.

19. There shall be kept in the office of the Colonial Secretary a correct register of the names, addresses, date of admission and qualification of all veterinary surgeons practising in the Colony.

Erasure of fraudulent entries.

20. The Board shall cause to be erased from the Register any entry which has been incorrectly or fraudulently made. When a person registered in the Register has, either before or after the passing of this Act, and either before or after he is so registered, been convicted, either in Her Majesty's dominions or elsewhere, of an offence which, if committed in England, would be a felony or misdemeanour, or has been guilty of any infamous or disgraceful conduct in a professional respect, such person shall be liable to have his name erased from the Register by order of the Governor in Council. The Board may hold an enquiry into the case of a person alleged to be liable to have his name erased under this section, at which enquiry such person shall have an opportunity of being heard, and on proof of such conviction or of such infamous or disgraceful conduct, the Governor in Council may cause the name of such person to be erased from the Register: Provided, that the name of a person shall not be erased under this section on account of a conviction for a political offence out of Her Majesty's dominions, nor on account of a conviction for an offence which, though within the provisions of this section, does not, either from the trivial nature of the offence or from the circumstances under which it was committed, disqualify a person from practising as a veterinary surgeon.

Application of fees received by Board.

21. All moneys arising from fees paid under this Act shall be received by the Board, and shall be applied in accordance with such regulations as may from time to time be made by the Board in defraying the expenses of such regulations and the other expenses connected with the execution of this Act.

Civil proceedings by Board, how taken.

22. It shall be lawful for the Secretary of the Board, or any person duly authorised in writing under the hand of the President, to take and institute any civil proceedings on behalf of the Board.

Certificate by Colonial Secretary to be proof whether person registered or not.

23. If in any proceedings, civil or criminal, it shall be material to determine whether any person be or be not in any capacity licensed or certified under this Act, a certificate, under the hand of the Colonial Secretary, to the effect that such person is or is not, as the case may be, duly licensed and registered in such capacity, shall be deemed and taken to be sufficient "prima facie" proof of the fact alleged in such certificate.

Falsely pretending to be a veterinary surgeon.

24. Every person shall be guilty of a contravention of this Act who, not having been registered and licensed as hereinbefore provided, falsely pretends to be, or takes and uses the name and title of a

(A) See sec. 22 of Act 27, 1898, tit. of horses suspected to be suffering from "HORSES," with regard to the duties of glanders. private veterinary surgeons in the case

veterinary surgeon, or any name, title, addition, or description implying that he is licensed or registered under this Act, or that he is qualified to practise as a veterinary surgeon. Act 21, 1899.

25. The provisions of Section 6 of this Act shall apply to contraventions of the foregoing section. Sec. 6 applicable.

26. No person shall be entitled to recover any charge in any Court of Law for any advice or attendance as a dentist or veterinary surgeon, or for the performance of any operation as a dentist or veterinary surgeon, or for an operation commonly performed only by a dentist or veterinary surgeon, or for any medicines or drugs which he shall have prescribed or supplied, unless he is licensed under this Act: Provided that nothing in this section contained shall apply to licensed Native doctors. Person not entitled to charge as dentist or veterinary surgeon unless licensed.

27. The Medical Council may, in accordance with regulations approved by the Governor, grant certificates of competence as trained nurses, mid-wives, attendants or nurses of the insane Midwives, trained nurses, &c., may obtain certificates on certain qualifications.

(a) To any person who is the holder of a certificate as a trained nurse, mid-wife, attendant or nurse of the insane, granted by any one of such examining bodies as the Council may from time to time prescribe and define.

(b) To any person who shall satisfy the examiners thereto appointed by the Council of his or her competence, skill and fitness in and for the occupation of nursing, mid-wifery, attendance or nursing of the insane, and who shall, in addition, produce proof by certificate or otherwise of having had sufficient training in nursing work, mid-wifery, attendance or nursing of the insane, under competent supervision.

Every such certificate shall entitle the holder to practise nursing, mid-wifery, attendance or nursing of the insane, according to regulations to be framed by the Council from time to time, and shall be signed by the President and Secretary of the Council, and shall be entered in a register to be kept for that purpose.

28. The Council may at any time, subject to the consent of the Governor in Council, withdraw or cancel a certificate granted to a trained nurse, mid-wife, attendant or nurse of the insane, if it shall be proved that the holder is grossly incompetent, or has been guilty of such improper conduct as, in the opinion of the Council, renders it inadvisable that he or she should continue to practise as a trained nurse, mid-wife, attendant or nurse of the insane. Certificate may be withdrawn.

29. Any person who shall falsely use or adopt any name, title, or description, implying that he or she is such a registered trained nurse, mid-wife, attendant or nurse of the insane, shall be liable to a fine not exceeding Twenty Pounds Sterling, or in default of payment to imprisonment, with or without hard labour, for any period not exceeding three months. Falsely using description, &c., implying registration as mid-wife, &c.

30. The Council shall, in the month of January in each year publish in the "NATAL GOVERNMENT GAZETTE" a list showing the names of all holders of certificates as trained nurses, mid-wives, attendants or nurses of the insane, on the said date, and such list shall, whenever possible, state the addresses of such holders. List of certificated nurses, &c., to be published.

31. Fees for the registration of nurses, mid-wives, attendants or nurses of the insane, shall be dealt with by regulations under this Act. Fees for registration.

32. The "Medical and Pharmacy Act, 1896," the "Dentists Act, 1896," and this Act shall be read and construed together as one Act. Construction.

Act 21, 1899. 33. Nothing in this Act contained shall in any way interfere with
Native doctors. Native doctors licensed to practise under the Code of Native Law.

MERCHANT SHIPPING ACTS.

[See "SHIPPING."]

MIDWIVES.

[See "MEDICAL PRACTITIONERS."]

MILITARY DESERTERS.

[See "CRIMINAL LAW."]

MILITARY WORKS (ESPIONAGE OF)

[See "CRIMINAL LAW."]

MINES AND COLLIERIES.

1

MINES AND COLLIERIES.

Act No. 43, 1899. (A)

“To consolidate and amend the Laws relating to Mining.”

[23rd November, 1899.]

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:—

PART I.

Preliminary.

1. This Act may be cited as “The Natal Mines Act, 1899.” Short title.
2. Law No. 34 of 1888, entitled “The Natal Mines Law, 1888,” and the Zululand Proclamation No. VII., of 1894, are hereby repealed, but such repeal shall not affect:—
 - (a) The past operation of the said Law No. 34 of 1888, and the said Zululand Proclamation No. VII., of 1894, and of any prior Laws, Proclamations, or Regulations. Repeals.
 - (b) Anything lawfully done under or validated by any of the said Laws or Proclamations mentioned in Sub-section (a).
 - (c) Any right, title, interest, or privilege acquired (not being inconsistent with this Act), or any liability incurred under any of the said Laws and Proclamations.
 - (d) Any penalty, forfeiture, or other punishment incurred in respect of any offence against any of the said Laws and Proclamations.
 - (e) Any suit or other proceeding depending in any Court or before any person, which shall be continued and concluded as if this Act had not been passed.
 - (f) Any Appointments, Regulations, Orders, or Notices in force at the time of the commencement of this Act, save so far as they may be contrary to or inconsistent with this Act.
3. The holder of, or the person owning the right, title, and interest in any prospecting area, claim, lease, provisional application for lease, water right, dam, machine site, mill site, or other licensed holding of any kind, granted, held, or occupied under or in pursuance of any Laws, Proclamations, regulations, or provisions in force prior to the commencement of this Act, may at any time surrender and yield up the same on payment of all rents, license fees and other moneys due in respect thereof, and upon compliance with all conditions as regards notice or otherwise relating to such holding, and in such case such holder or person shall be entitled to acquire title under the provisions of this Act, and in compliance therewith, to the land so held: Conversion of existing titles into title under this Act.
Provided, however, that the Commissioner of Mines in his discretion may in the case of mining or mineral leases held under any previous Law or Proclamation permit such leases to be registered as mining claims under and subject to the provisions of this Act and the Regulations. Provided, however, that the said leases so converted into claims may remain of the form, dimensions, and area as originally beaconed, and the survey and diagrams thereof may be accepted as if

(A) This Act was not promulgated until the fourteenth day of November, 1900.

Act 43, 1899. made under the provisions of this Act, anything contained in this Act and the regulations in respect of mining claims to the contrary notwithstanding. Provided, further, that the mining claim license fees to be paid in respect of such claims shall be at the rate of thirteen shillings per acre for Metal Mining Claims, and five shillings per acre for Mineral Mining Claims, payable and renewable as in the case of mining claim licenses.

Interpretation. 4. In the construction and for the purposes of this Act, the following terms in inverted commas shall have the respective meanings hereby assigned to them, unless there be anything in the subject matter or context repugnant to such construction:—

“Crown Lands.”—All unoccupied unalienated lands of the Crown, except as follows:—

- (a) Lands dedicated to or reserved for any public purpose.
- (b) Ordnance lands or other lands of any department of the Imperial Government.
- (c) Lands specially exempted from the operation of this Act, either by the terms of the Act itself or by Notice in the “NATAL GOVERNMENT GAZETTE” by order of the Governor in Council.

“Owner.”—The registered owner of any lands held under freehold or quitrent tenure, the Natal Native Trust, and any trustees in whom the registered ownership of any land is vested.

A person holding lands under a contract of purchase from the Crown shall be deemed the owner, notwithstanding that transfer has not yet been made.

“Mining purposes.”—The purpose of searching for mining and removing minerals, including the erection of machinery, and the construction of works connected with such purposes, and the doing of all lawful acts, incident or conducive thereto.

“Native Gold.”—Includes gold or precious metal in whatever form, although smelted, which is not manufactured or made up into any article suitable for trading purposes. It also includes raw gold or other precious metal and amalgam.

“Precious Stones.”—Shall mean and include diamonds, rubies, sapphires, and emeralds.

“Minerals.”—All substances which can be extracted from the earth by mining operations for the purpose of profit: Provided that the term mineral shall not apply to any stone or clay for use for building, road-making, or kindred purposes, except such as are mentioned in this Act, nor to any minerals which, not being so mentioned, may be excepted from the operation of this Act by Government Notice by order of the Governor in Council.

“Dam” or “Reservoir.”—Any artificial storage or accumulation of water.

“Mine.”—All workings of minerals, including quarrying and other methods of excavation on the surface, and from the surface downwards, and underground, together with all erections and appliances, matters, or things of what nature soever connected therewith or belonging thereto, above and below ground for the purpose of prospecting for or winning minerals.

“Mine Owner.”—Any person, or body of persons, being the immediate holder or lessee of any mine or part thereof, and not being a person or body of persons who merely receive a royalty or rent from a mine, or who is merely the owner of a mine subject to any contract for the working thereof. Where a mine is owned by a Company or Syndicate not registered in this Colony, and having its Board of Directors beyond the Colony, the duly appointed Agent of such

Company or Syndicate in the Colony will be considered to be the Mine Owner. Act 43, 1899.

"Owner's Agent."—The Representative of the Mine Owner, but who is not necessarily the responsible person under this Act for the control, management, and direction of the mine.

"Manager."—The person appointed by the Mine Owner or his Agent as responsible under this Act for the control, management, and working of the mine.

"Prospecting Claim."—A portion of ground of a size fixed by this Act assigned for the purpose of searching for minerals in accordance with the provisions of this Act.

"Mining Claim."—A portion of ground of a size fixed by this Act assigned for the purpose of mining for and disposing of minerals in accordance with the provisions of this Act.

"Abandon," when used in reference to a claim or holding, shall mean to summarily determine the right to and interest in such claim or holding.

"Person."—Shall include any Company or Syndicate.

"Native."—Shall mean a Native as defined by Law No. 14, 1888.

"Minister."—The Minister for the time being charged with the control of the Mines Department.

"Commissioner of Mines."—The Officer appointed by the Governor in Council as being in charge of the Mines Department in accordance with the provisions of this Act, and who is under the control of the Minister.

"Deputy Commissioner of Mines" or "Deputy Commissioner."—The District Officer of the Mines Department subordinate to the Commissioner of Mines.

"Magistrate" includes Resident Magistrate.

"Regulations."—Regulations made by the Governor in Council under this Act.

The singular number shall, unless inconsistent with the context, include the plural, and "vice versa," and the masculine gender the feminine gender.

Any reference to this Act shall, unless the contrary sense appear, include a reference to the regulations.

5. The Governor in Council shall appoint all such officers as are required for carrying out this Act, and may assign to such officers their respective titles, duties, and districts. In case of necessity arising through the temporary absence or inability to act of any officer, the Minister may appoint a deputy to carry out any or all the duties of such Officer, pending an appointment in due course. Officers.

6. The Minister shall have power to create any Board and to appoint or approve of persons as members of any Board that may be necessary for carrying out the provisions of this Act, and among others for the purpose of appeal, arbitration, assessment of compensation, enquiry, and examination of candidates for certificates or otherwise, and to pay them out of the general revenue of the Colony such remuneration as may be appointed by the regulations or otherwise. Boards.

7. No Officer appointed by the Governor in Council for the purpose of carrying into effect any of the provisions of this Act shall be allowed, either directly or indirectly, to possess any claim or claims, or any interest therein, or to hold any share or shares in a Mining Company or any Syndicate or Partnership relating to mining matters in the Colony of Natal, except such share or shares as such officer may hold at the time of his appointment, and be authorised to continue to hold by the Governor. No officer to hold interest in mining.

Act 43, 1899. Any officer guilty of a breach of the provisions of this section may be suspended from office or may be dismissed.

Classification of claims. 8. Parcels of land to be called claims may be granted under and subject to the provisions of this Act as follows:—

Alluvial. ALLUVIAL CLAIMS of a size not exceeding 100 feet x 100 feet (0.229 acre), granted for the purpose of prospecting or mining for precious stones and alluvial minerals, and all other minerals.

Metal. METAL CLAIMS of a size not exceeding 300 yards x 300 yards (18.595 acres), granted for the purpose of prospecting or mining for gold and other minerals, including coal, but excepting precious stones and alluvial minerals.

Mineral. MINERAL CLAIMS of a size not exceeding 700 yards x 700 yards (101.239 acres), granted for the purpose of prospecting or mining for coal, limestone, stratified ironstone, slate, soapstone, and such other minerals as may from time to time be included by Government Notice by order of the Governor in Council.

May be granted as prospecting or mining claims. The foregoing Claims may be granted as Prospecting or Mining Claims for the purposes respectively prescribed by this Act, and shall be described as follows:—

Alluvial Prospecting Claims.

Alluvial Mining Claims.

Metal Prospecting Claims.

Metal Mining Claims.

Mineral Prospecting Claims.

Mineral Mining Claims.

Provided, however, that the dimensions and areas above prescribed shall not apply in the case of the conversion of Leases into Claims under Section 3.

PART II.

Rights of the Crown.

Mineral rights vested in Crown 9. The right of mining for and disposing of all minerals on lands situated in the Colony of Natal is vested in the Crown, subject to the provisions of this Act, and nothing in this Act regarding the prospecting, mining, or disposal of minerals shall abridge or control the rights and powers of Her Majesty in respect of such minerals, otherwise than is expressly provided in this Act.

PART III.

Crown Lands.

Prospecting.

Right to prospect. 10. It shall be lawful for any person to prospect and search for minerals on any Crown Lands without a license, so long as such prospecting is confined to a general examination of the surface, and that no excavations are made. He may also peg off not more than four claims in accordance with the provisions of this Act, but without a license: Provided that unless he shall, within fourteen days from the date of pegging any such claims, obtain a prospecting claim license or licenses, as hereinafter provided, such claim or claims shall be deemed to be abandoned.

Prospecting Claim License: To whom granted. 11. Prospecting Claim licenses may be issued by the proper officer to any person of either sex over the age of 16 years, of European birth or descent: Provided that not more than four such licenses shall be

held by any one person at any one time. Application for such license must be in person, unless the applicant is already the holder of a claim license issued by the Officer to whom such application is made. **Act 43, 1899.**

This section shall not be deemed to prevent one person from holding more than four prospecting claim licenses by transfer in manner provided by this Act, or by the renewal of transferred licenses, or to prevent any person who has duly transferred any prospecting claim licenses registered in his name, or whose claims may have lapsed, from making application as hereinbefore provided for the issue of other similar licenses. **Limit as to number.**

The fee to be paid for every Prospecting Claim License shall be One Shilling for each and every period of three months for which the same is to be in force, payable in advance. **Fee—One shilling for three months.**

12. Each prospecting claim license shall entitle the holder to peg, or cause to be pegged, one Prospecting Claim on any Crown Lands in the Colony, which claim he may hold subject to the provisions of this Act and the regulations for the period for which the license was granted or renewed. **Rights of holder.**

13. Such prospecting claim shall be registered, within a time to be fixed by the Regulations, at the Mines Office of the District in which such claim is situated, in a book to be kept for the purpose, and a fee of Five Shillings shall be paid for the registration of each claim, and a certificate of registration to the said claim in the form of Schedule A shall thereupon be issued to the holder by the Deputy Commissioner: Provided that in the event of existing holdings being converted into prospecting claims under this Act a registration fee of Two Shillings and Sixpence shall be payable. **Prospecting claim to be registered.**
Fee and certificate.

14. Prospecting claim license fees shall be payable in advance, at the Mines Office of the District in which claims held in virtue thereof are registered. **Payment of fees.**

15. On payment of the fee for the renewal of a prospecting claim license, a new license shall be issued to the claim-holder at the Mines Office of the District where such claim is registered. **Renewal of license.**

16. Prospecting claim and other license fees may at any time be paid in advance for any number of months, not exceeding twelve, but no refund will be made under any circumstances. Such licenses shall be dated as of the date of issue, but may be expressed to run as from a date prior or subsequent to such date of issue. **Dating of licenses.**

17. If the license in respect of any prospecting claim which has been registered for a less period than twelve months be not renewed within fourteen days of its due date, or if any other moneys due in respect of such claim remain unpaid for seven days after payment is due, notice shall be posted at the Mines Office of the District that such claim will be abandoned and open to be re-pegged unless the said license and other moneys be renewed and paid by a given date to be mentioned in the notice, which shall not be less than fourteen days after the posting of such notice, and in default of renewal and payment by the time stated in such notice, the claim may be abandoned by the Deputy Commissioner of Mines, and shall thereupon be open to be re-pegged. **License registered for less than a year will be abandoned in default of renewal and payment of arrears.**

18. If the license in respect of a prospecting claim which has been continuously registered for a period of twelve months or more, be not renewed within fourteen days of its due date, or if any other moneys due in respect of such claim remain unpaid for fourteen days after payment is due, notice shall be given to the claimholder by delivering the same at, or posting the same to, his registered address, and shall also be published in the "NATAL GOVERNMENT GAZETTE" and one other newspaper and posted at the Mines Office of the District, to the **License registered for year or more will be abandoned in default of compliance with notice in Gazette, &c.**

Act 43, 1899, effect that such claim will be abandoned, and open to be re-pegged on a date to be fixed, which shall be not less than 21 days from the date of publication of such notice in the "NATAL GOVERNMENT GAZETTE" and one other newspaper, unless the said licenses, and any other moneys due in respect of such claim, together with a fine at the rate of One Pound per claim, be renewed and paid by the said date: Provided, however, that such fine as aforesaid shall not be payable if the said licenses and any other moneys due be renewed and paid, or notice of abandonment of the claim by the claimholder given to the Deputy Commissioner, within twenty-eight days after the date of expiry of such licenses. At the expiration of the term appointed by the notice the Deputy Commissioner may, unless the requirement thereof has been complied with, declare the same to be abandoned and open to be re-pegged.

Disabilities of former owner in respect of abandoned claim.

19. The former owner of any claim abandoned as aforesaid shall not be allowed to re-peg or acquire the same or any part thereof, either directly or indirectly, except on payment of all the license fees and the fine (if any), and all other moneys due in respect of such claim to date, and then only in the discretion of the Commissioner of Mines, and if no application for the said claim shall have been made by any other person.

Working rights of holder of prospecting claim.

20. The registered holder of a prospecting claim shall have the right to generally prospect the same, and to carry out such work, erect such buildings, machinery, and do such other acts and things on such claim as may be necessary to the "bona-fide" prospecting and development thereof:

Prohibited acts.

Provided, however, that the sale or other disposal of any mineral extracted from such claim in the course of prospecting or development, and the extraction of any metal from its ore or the mineral containing it by any mechanical or chemical or other process for purposes of profit, shall be and is hereby prohibited, except under the special permission in writing of the Commissioner of Mines.

Amalgamation of prospecting claims.

21. Prospecting claims may be amalgamated upon and subject to the conditions contained in the Regulations.

In the case of an amalgamated block of claims, work may be concentrated on one or more points, or distributed over such block in the discretion of the holder or holders.

Claims to be worked unless exempted.

22. Every prospecting claim or amalgamated block of prospecting claims must be worked in accordance with the regulations, or a license as hereinafter provided, must be obtained, exempting such claims from such work.

Exemption license.

23. An Exemption License in the form of Schedule B will be granted for any claims exempting the same from the working conditions referred to in the last preceding section on payment of a fee of One Pound for each period of three months or less per claim payable and renewable as in the case of prospecting claim licenses.

Compulsory conversion into mining claim.

24. If at any time it shall appear to the Commissioner of Mines to be detrimental to the public interests that any prospecting claim shall continue to be held as such, it shall be lawful for him to give notice to the claimholder to convert his Prospecting Claim into a Mining Claim, and to make the necessary application under the provisions of this Act and regulations by the date stated in such notice, or by such date to show cause to the contrary by personal appearance or by forwarding to the Commissioner of Mines his objections, if any.

Procedure.

Such notice shall also be posted at the Mines Office of the district where such claim is situated. Upon receipt of such objections the Commissioner of Mines may, with the approval of the Minister, accept

the same as sufficient, or may reject the same, and shall notify the claimholders accordingly. Act 43, 1899.

In the event of the objections aforesaid being held insufficient and in default of due compliance with such notice, then it shall be lawful for the Commissioner of Mines, with the approval of the Minister, to declare such Prospecting Claim to be abandoned, and all licenses granted in respect thereof to be cancelled.

MINING.

25. The mining, extraction, and disposal of any mineral for the purposes of profit on or from any Crown lands is prohibited, except on and from ground duly registered as a Mining Claim in accordance with this Act, or otherwise lawfully held for such purposes under the provisions of any previous laws or proclamations. Prohibited mining, &c.

26. No Mining Claim shall be beaconed off unless and until a Mining Claim License shall have been first obtained as hereinafter provided. When mining claim may be beaconed off.

27. The registered holder of a Prospecting Claim shall have the prior right to the registration of a Mining Claim on the ground held as such Prospecting Claim. Priority of rights.

28. One or more Mineral Mining Claim Licenses, and not more than four Alluvial or Metal Mining Claim Licenses, may be issued by the proper officer to any one person of either sex of European birth or descent over the age of sixteen years. Application for such license must be made in person unless the applicant is already the holder of a claim license issued by the officer to whom such application is made. Mineral Mining Claim Licenses : Alluvial Mining Claim Licenses : Metal Mining Claim Licenses : How issued, &c.

This section shall not be deemed to prevent any person who has become the holder by transfer of more than four Prospecting Claim Licenses from obtaining Alluvial or Metal Mining Claim Licenses for so many prospecting licenses as he holds: Provided that such Mining Claim Licenses shall not authorise the pegging off of Mining Claims upon any land other than that which may be held under such Prospecting Claim Licenses as aforesaid.

This section shall also not be deemed to prevent any person who has duly transferred any Alluvial or Metal Mining Claim Licenses, or whose claims have lapsed, from making application as hereinbefore provided for the issue of other similar licenses.

29. The fee to be paid for every Mining Claim License shall be Two Pounds per month for an Alluvial or Mineral Claim and One Pound per month for a Metal Claim for each month for which the same is to be in force, payable in advance, except in the cases hereinbefore provided for of claims granted in exchange for leases. Fees for above licenses.

30. Each Mining Claim License shall entitle the holder to peg or cause to be pegged one Mining Claim of the class mentioned in the license on any Crown Lands, which claim he may hold subject to the provisions of this Act and the Regulations for the period for which the license is granted or renewed. Right of pegging conferred by license.

31. Every mining claim shall be registered within the time appointed by the Regulations at the Mines Office of the District in which such claim is situated in a book to be kept for the purpose, and a fee of Ten Shillings shall be paid for such registration, and a Certificate of Title to the said claim in the form of Schedule C, with surveyor's diagrams attached thereto, shall thereupon be issued to the holder, duly signed by the Minister, and upon the issue of such Certificate, the Title to such mining claim shall be indefeasible, but the Certificate of Title shall be issued subject to such reservations as may be inserted under the provisions of this Act in that behalf. Mining claim to be registered. Fee and certificate.

Act 43, 1899.

Payment of fees.

32. Mining claim licenses shall be payable in advance on the first day of every month, at the Mines Office of the District in which claims held in virtue thereof are registered. Licenses taken out on or before the 15th day of the month shall be payable as for a full month. Licenses taken out after the 15th day of the month shall be payable as for half a month, by half the monthly fee.

Renewal of license.

33. On payment of the fee for renewal of a mining claim license a new license shall be issued to the claimholder by the Deputy Commissioner at the Mines Office of the District where such claim is registered.

Dating of license.

34. Mining claim and other license fees may at any time be paid in advance for any number of months, not more than twelve, but no refund thereof will be made under any circumstances except where otherwise provided in this Act or the Regulations. Such licenses shall be dated as of the date of issue, but may be expressed to run as from a date prior or subsequent to such date of issue.

If license fees, &c., in arrear, and default made on notice in *Gazette*, claim may be sold.

35. If any license fees, royalties, dues, fines or other moneys payable in respect of any mining claim or claims shall be in arrear and unpaid for the space of one month after the due date of payment thereof, it shall be lawful for the Commissioner of Mines to cause a demand for payment of such license fees, royalties, or other moneys in arrear and unpaid as aforesaid to be made on the claimholder, such demand being made by registered letter and posted to his registered address or delivered to him personally or left at such registered address, and notice thereof shall be published in the "NATAL GOVERNMENT GAZETTE" and one other newspaper, and posted at the Mines Office of the District where such claim is situated. If payment of the amount so due, together with all license and other fees accruing in the meantime in respect of such claim or claims, together with a fine not exceeding Two Shillings per claim per diem from the date of such demand (if the Minister sees fit to impose the same), be not made by the date fixed in such demand, being not less than one month from the date of publication in the "NATAL GOVERNMENT GAZETTE" and one other newspaper, the Minister may cause such claim or claims to be publicly sold at such time and in such manner as he may decide.

Notice—publication of.

Notice of the sale of such claim or claims shall be published in the "NATAL GOVERNMENT GAZETTE" and one other newspaper, and posted at the Mines Office of the District where such claim is situated, at least fourteen days previous thereto.

Proof of the posting and publication of such notices as aforesaid shall be sufficient, and it shall not be necessary to prove that the same were received by the license holder.

Sale may be withdrawn.

If payment of the amounts due and of all costs be made before the sale, the sale may be withdrawn.

Power to enter and seize machinery &c.

36. In addition to the power of sale in the preceding section provided, and concurrently with or independently of any such sale, it shall be lawful for the Minister, or any person duly authorised by him in that behalf, if any royalties or fines or other moneys due in respect of such claim, lawfully payable to the Government, be in arrear and unpaid for one month from the due date thereof, to enter upon the said claim or claims and to seize the machinery and plant, tools, buildings, or other property or any minerals at grass for the time being, in, under, or upon any part of such mining claim.

Demand for payment.

Upon making such seizure, the Minister shall cause a demand to be made upon the claimholder for the payment of the amount so due, together with all expenses.

Notice of such demand shall be posted and published, as prescribed in the foregoing section, and shall appoint a time, not being

earlier than a month from the date of publication, within which payment must be made. Act 43, 1899.

If payment be not made within the time so appointed, the Minister, or other person so authorised as aforesaid, may sell the said property and minerals, or any part thereof, by public auction, on such terms and in such manner as the Minister may think fit. Property may be sold.

The right of seizure conferred on the Minister as aforesaid shall be a Government hypothec, preferent over any creditors, whether secured or not. Government hypothec.

37. From the proceeds of any such sale, or seizure and sale, or both, under the two foregoing Sections, the expenses thereof, together with the amounts due to the Government, and any fine imposed as provided therein shall be first paid, and the balance, if any, shall be payable in discharge of any lien for wages as provided for in this Act, and the disposal of any balance then remaining shall, subject to any Regulations made in that behalf, be paid to the person entitled thereto: Provided, however, that the Government may in its discretion permit that after payment of all expenses the lien for wages be first paid. Disposal of proceeds of sale. Wages.

38. If any claim offered for sale as aforesaid should prove unsaleable, then the same shall be abandoned and declared open to re-pegging: Claim may be abandoned.

Provided, however, that the former holder of such claim shall not be allowed to re-peg, or acquire the same or any part thereof, either directly or indirectly, except on payment of all the fees, royalties, fines, and other moneys due in respect thereof, including liens for wages and all expenses incurred, and then only in the discretion of the Commissioner of Mines, and if no application for the said claim shall have been made by any other approved person. Disabilities of former owner.

39. The registered holder of a mining claim shall have the right to carry on mining operations, and erect such machinery, buildings, plant, and generally do all such acts and things in and upon such claim for the purpose of working the same and extracting minerals therefrom, and to turn such minerals to profitable account, subject to the conditions of this Act and the Regulations. Working rights of holder of Mining Claim.

40. Mining claims may be amalgamated into blocks, as may be provided for in the Regulations. Amalgamation of Mining Claims.

Every mining claim or amalgamated block of mining claims must be worked in accordance with the regulations, or a license as hereinafter provided, must be obtained exempting such claims from such work. Must be worked.

An Exemption License in the form of Schedule B will be granted for any claims exempting the same from the working conditions referred to in this section on payment of a fee of Ten Shillings per month per claim, payable and renewable as in the case of mining claim licenses, and the fee for an Exemption License taken out after the fifteenth day of any month shall be Five Shillings per claim for the remainder of that month. Exemption License.

41. There shall be payable on all minerals extracted from Crown Lands, under licenses granted under this Act, a Royalty at the rate of one and one half ($1\frac{1}{2}$) per centum, calculated on the value of such minerals at the mine. Royalty on minerals extracted.

The payment of such royalty shall be made at such times as may be provided in the Regulations. Payment.

PART IV.

Private Lands.

42. The provisions of this Act, and of the Regulations framed thereunder in respect of Crown Lands, shall apply to all Private Lands, save as in this Act otherwise provided. Application to private lands of Act and Regulations.

Act 43, 1899.
Rights of
owner.

43. Notwithstanding anything to the contrary contained in this Act, an owner of land, not being of European birth or descent, may, in respect of the land owned by him and of any minerals, metals, or precious stones found therein, exercise all the rights and powers conferred by this Act.

Prospecting
rights of owner.

44. Any owner of land, or any person "bona fide" appointed by him, shall be at liberty to prospect for minerals within the boundaries of his own land without taking out a prospecting claim license, but shall not peg off any claim without first taking out the necessary license. An owner may take out as many such licenses in respect of his land as he may require.

As to licenses.

Prospecting by
other persons.

45. No person other than the owner shall be allowed to prospect on private lands unless with the consent of such owner, or as hereinafter provided.

No claim license
to be granted
within a year,
without owner's
consent.

46. No person shall be granted any claim license for the land of any owner within a period of twelve months after the coming into operation of this Act unless with the written consent of such owner lodged with the Deputy Commissioner of the District wherein such land is situated.

Prospecting
Claim License :

47. After the expiry of such term of twelve months (or prior thereto should the owner consent) it shall be lawful on application in accordance with the next Section, to issue prospecting claim licenses to any person, which shall entitle him to prospect any part of the land of any owner not then held under license by the owner or anyone else, and such license shall specify the land to be prospected and shall be issued subject to all provisions of this Act and the Regulations applicable to Crown Lands, subject nevertheless to the provisions made in respect of Private Lands: Provided that the number of prospecting claim licenses held at any one time by any one person as aforesaid shall not exceed four: Provided, further, that prospectors on private lands, other than the owner of such lands, shall not peg off more than two claims in the same line.

Limit as to
number.

Subject always to the provisions of Section 48, this section shall not be deemed to prevent any person from holding more than four such claim licenses by transfer in manner provided in this Act, or by the renewal of transferred licenses, or to prevent any person who has duly transferred such licenses, or whose licenses have lapsed, from making application for the issue of other licenses in place thereof.

Issue of licenses
suspended after
first four.

48. Notwithstanding the provisions of the foregoing Section it shall not be lawful without the consent of the owner of the land to issue more than four prospecting claim licenses to any person other than the owner until the expiration of three months after the owner shall have received notice of the first issue of such licenses, which notice the Deputy Commissioner shall be obliged to give within one week from the date of the issue of the first license.

Rights of owner
in interval.

During the term of such three months the owner shall have the exclusive right of taking out licenses, and may take out as many such licenses as he requires.

Resumption of
issue.

At the expiry of such three months the issue of licenses to others may be resumed, but without prejudice to the right of the owner to take out licenses in the same way as any other person may do.

Before license
issued notice to
be given to
owner.

Before any license is issued for prospecting on private lands, notice shall be given by the Deputy Commissioner of Mines to the owner, who shall have the right to lay any objection to such licenses before the Deputy Commissioner of Mines. Any such objections shall be considered by the Deputy Commissioner of Mines, and his decision thereon shall be subject to appeal to the Minister, whose decision shall be final.

49. Every applicant for such prospecting claim license shall deposit with the Deputy Commissioner of Mines the sum of Two Pounds Ten Shillings for every prospecting claim license issued to him by way of security for the due and proper repair of any surface damage done by him on the land of any owner, subject to any agreement between such person and the owner for the deposit of a lesser sum or otherwise. The deposit thus made shall be returnable to the party paying the same, on satisfactory evidence being given to the Deputy Commissioner that such damage, if any, has been made good upon the abandonment of the claim, or the same shall be returnable upon the conversion of such prospecting claim into a mining claim, or may be returnable at any time, providing the consent of the owner is first obtained. On failure of the condition of the deposit the same, or a part thereof in the discretion of the Deputy Commissioner, shall be forfeited and paid to the owner of the land.

Act 43, 1899.
Applicant to deposit sum as security for repair of surface damage.

50. Any person entering the land of any owner after having obtained a prospecting claim license as herein provided, shall, upon or prior to such entry, give written notice thereof to the owner in the form of Schedule D, and the service of such notice shall be as hereinafter provided.

Notice to be given to owner of intention to enter.

If such notice be so given, such entry shall not be, or be deemed to be, an act of trespass on the part of such person, his servants or agent.

51. Upon the application of any holder of a prospecting claim license as aforesaid for the registration of any prospecting claim under the provisions of this Act and the Regulations, the Deputy Commissioner of Mines receiving such application shall thereupon give notice thereof to the owner in form of Schedule E, and cause the same to be served as hereinafter provided.

Notice to owner of application for registration.

Any objection to such application must be lodged with the Deputy Commissioner in writing on or before the date mentioned in such notice, which shall not be less than fourteen days from the date thereof, or on or before such extended date as the Deputy Commissioner may, under special circumstances, permit. If there are no objections, the Deputy Commissioner shall register the prospecting claim.

Objections.

52. If any objections to the registration of the holding are received, the application and the objections, together with the Deputy Commissioner's report on the matter, shall thereupon be forwarded to the Minister through the Commissioner of Mines, who shall judge whether such objections are fair and reasonable and such as in his opinion should be considered, having regard to the agricultural, industrial, or other operations of the said owner; and the Minister shall, if he think necessary, ascertain and determine whether the locality of the land, the geological features thereof, or any other indications of fact, give reasonable belief that minerals are to be found on such land.

Procedure on hearing of objections.

Upon compliance with the conditions of this Act, and the Regulations applicable thereto, the Minister shall grant such application, unless it appear that such application is contrary to this Act, but the grant shall be subject to such conditions, including the payment of compensation, if necessary, as he may think proper in the circumstances.

Adjudication.

53. The notices to be given as aforesaid shall be served on the owner by registered letter, or personally, or left at his residence or place of business within the Colony of Natal, or in the event of the owner's absence from the Colony, then upon the agent, if any, of such owner, and if there be no such agent, or if he cannot be found, then by posting such notice on the land itself, and by publishing it once

Notices—how served.

Act 43, 1899. in the "NATAL GOVERNMENT GAZETTE" and some other newspaper circulating in the district.

Number of persons entering to prospect limited.

54. No person entering the land of any owner for the purpose of prospecting shall, except with the owner's consent, be accompanied or assisted by more than two assistants for such prospecting work prior to the registration of any claim or claims beacons off by him.

Certain rights not to be included in license.

55. The rights conferred by any license under this Act shall not include the right of entering private property with draught cattle, entire horses or entire donkeys, and shall in no case confer any rights of grazing or to cut wood, except with the consent of the owner: Provided, however, that a prospector may within the area of his claim or claims collect dead wood for domestic purposes.

Mining claim—how obtainable.

56. Any person desiring to obtain a mining claim on the land of any owner must be the registered holder of a prospecting claim on such land, which he shall then be entitled to convert into a mining claim, subject, however, to all the provisions applicable to the application for, and registration of, mining claims on Crown Lands: Provided, however, that it shall not be necessary for an owner to first register a prospecting claim before applying for a mining claim on his own land.

One half of license fees, &c., to be paid to owner.

57. One-half of all moneys received by the Government from any person other than the owner, as license fees, royalties, or penalties (other than those imposed for contraventions of this Act and the Regulations), in respect of any licenses, claims, or other licensed holdings granted over private lands, shall be paid by the Government to the owner of such lands. The manner and time of payment of such moneys due to any owner under this section may be determined by the Regulations.

Owner required to pay half fees.

58. The owner of private lands shall only be required to pay half the license fees and royalties in respect of any claims or other licensed holdings situated on his own land and held by him, under the provisions of this Act.

Exclusive right of owner to prospect or mine certain minerals.

59. Anything to the contrary herein contained notwithstanding, no person other than the owner shall be allowed to prospect or mine on the land of such owner, or to peg claims for prospecting or mining therein for coal, limestone, stratified ironstone, slate, soapstone, and such other minerals as may be included by Government Notice by order of the Governor in Council, at any time except with the written consent of the owner: Provided, however, that this section shall only apply and extend to such lands as are already alienated by the Crown, or are in process of alienation at the date of the coming into operation of this Act, and shall not apply to any lands alienated after that date unless so expressed in the deed of title of any such land.

Saving of rights of Crown.

60. Nothing in the preceding section or in this Act contained relating to private lands shall in any way affect or lessen the rights of the Crown, whether declared in this Act or in any document of title, or otherwise.

PART V.

Lands held under Public Trusts.

Trustees of Trust lands may refuse or grant permission to prospect, &c.

61. It shall be lawful for the Natal Native Trust and for the trustees appointed, or to be appointed, hereafter by Her Majesty the Queen, or by the Colonial Government, who may at any time hold any lands in this Colony in trust for Natives, or the trustees of Mission reserve lands, or the trustees of any public trust, to grant from time to time or refuse to grant to any person applying for the same, permission to enter and prospect for minerals in and under any portion of the said Trust Lands.

62. The provisions of this Act and of the Regulations framed thereunder in respect of Crown Lands, save as is otherwise provided, shall be applicable to any portion or portions of the Trust Lands aforesaid on which permission to prospect may have been granted. **Act 43, 1899.**
Application of Act and Regulations.
63. One-half of the amount received by the Government on account of license fees, royalties or penalties (other than those imposed for contraventions of this Act and the Regulations), in respect of any licenses, claims, or other licensed holdings or rights granted on such Trust Lands, shall be paid to the Trustees thereof, at the times and in the manner prescribed by the Regulations. **Trustees entitled to half fees, &c.**
64. Any person desiring to prospect upon any such Trust Lands shall first obtain a permit in form of Schedule F from the secretary or other proper officer, and take out the prospecting claim licenses as therein permitted, and such person may then enter upon such Trust Lands for the purpose of general prospecting and beaconing off a prospecting claim, or claims, according to the number of licenses held by him. **Permit to prospect.**
65. Upon receipt of an application for registration of a prospecting claim, water right, machine stand, or residence site, the Deputy Commissioner receiving the same shall forward the application to the Commissioner of Mines, who shall give notice to the secretary or other proper officer of the receipt of such application. If no objections are made by the Trust within a period fixed in such notice, which must not be less than fourteen days from the date thereof, the Commissioner of Mines shall direct the Deputy Commissioner to register the claim or other licensed holding. If any objections are made by the Trust within the time specified, the Commissioner of Mines shall instruct the Deputy Commissioner to register the claim or other licensed holding, subject to such reservations and conditions as may meet the objection of the Trust. **Procedure on application for prospecting claim, water right, &c.**
Objections.
66. Any person desiring to obtain a mining claim, or claims, on any such Trust Lands as aforesaid, must be the registered holder of a prospecting claim, or claims, which he shall then be at liberty to convert into and hold as a mining claim, or claims, subject to all the provisions applicable to the application for registration and granting of mining claims on Crown Lands. **Mining claims, how obtainable.**

PART VI.

Forest Lands.

67. The provisions of this Act in respect to Crown Lands, save as is otherwise provided, shall apply to all Forest Lands unalienated by the Crown. **Application of Act.**
68. The holder of a claim or other licensed holding registered under this Act situated on unalienated forest lands shall be entitled to exercise the following rights, that is to say:— **Rights of registered holder of claim, &c.**
- (a) To cut and clear away such brushwood and undergrowth as may be necessary to enable him to conduct and carry out all the operations necessary in connection with such claim or holding: Provided that such holder shall conform to all rules made by order of Government and notified in the "NATAL GOVERNMENT GAZETTE" relating to the cutting and clearing of brushwood and undergrowth, and to the preservation of young trees. **Cutting undergrowth.**
- (b) To cut such timber, in order to clear such space as may be necessary for the erection of any buildings, plant and works, as well as the space required for the development, working and use of such licensed holding, provided that **Cutting timber.**

Act 43, 1899.

the written permission of the Commissioner of Mines be first had and obtained, and that such amount be first deposited as the Surveyor-General or other officer in charge of unalienated forest lands may deem necessary to cover the amount of damage likely to result from the cutting of such timber.

Permission to cut timber.

69. Application for permission to cut timber shall be made through the Deputy Commissioner of Mines, who shall, after consulting with the District Forest Officer (if any), forward such application, with his report thereon, to the Commissioner of Mines.

PART VII.

Water Rights.

To whom granted.

70. Water Rights shall only be granted to the registered holder of a prospecting or mining claim, or machine stand.

License fee.

71. The license fee for each Water Right shall be Ten Shillings per month, payable and renewable as in the case of other licenses.

Powers under water right.

72. The holder of a water right shall have the right to collect, store, divert, convey, and use for mining purposes and the treatment of minerals, water from any source not exempted as hereinafter provided at the rate, under the conditions, and in the manner provided under this Act and the Regulations.

No proprietary right in water.

73. The registered holder of any prospecting or mining claim or machine stand, on or through which any water flows in any river or watercourse, shall have no proprietary right in such water; he shall only have the right to use the same for mining purposes or the treatment of minerals in accordance with the provisions of this Act and the Regulations.

How water rights may lapse.

74. Should the right to any claim or machine stand in connection with which a water right has been granted lapse from any cause, then the water rights so granted shall "ipso facto" also lapse. If such claim or machine stand be transferred, the water right connected therewith shall "ipso facto" also lapse, unless it be also transferred at the same time and to the same person as such claim or machine stand.

Registration.

75. Every water right shall be registered at the Mines Office of the district in which the claim or machine stand with which it is connected is registered, in a book to be kept for the purpose, and a fee of Ten Shillings shall be paid for such registration, and a certificate of title to the said water right in the form of Schedule G., with surveyor's diagram attached thereto, shall thereupon be issued to the holder.

Lapse by non-user.

76. Any water right may, in the discretion of the Commissioner of Mines, be declared to have lapsed if, for the period of one year, proper use is not being made of the water right.

Reservoirs, dams, &c.

77. A portion of ground may, in the discretion of the Commissioner of Mines, be granted for the purpose of being used as a reservoir, dam, or pumping station upon the payment of the fee, and subject to the conditions provided for in the Regulations, compensation therefor being determinable and payable in manner provided by the Lands Clauses Consolidation Law, 1872.

Rules to be made in respect of water rights.

78. The Regulations to be made as hereinafter provided in regard to water rights shall, amongst other things, provide for full publicity being given to applications for water rights, and for the hearing and consideration of objections by all persons interested in the use of the water sought to be taken or diverted.

79. In all running rivers and watercourses from which water is diverted for mining purposes there shall be left running sufficient water for general use, and sufficient water shall always be reserved for the use of owners and occupiers of land through which the rivers or watercourses run, and of their families and stock and cattle, and for the watering of all such gardens and arable lands under cultivation or the driving of any mill or machinery in existence at the date of any application for a water right on such river or watercourse. The quantity of water required for such purposes shall be estimated by some person, other than the Commissioner or Deputy Commissioner of Mines, to be nominated by the Minister for the purpose, at the expense (if any) of the applicant for such water right, and recorded in the Office of the Commissioner of Mines: Provided, however, that any objections of the aforesaid owners and occupiers shall be considered before any decision is arrived at under this section.

Act 43, 1899.
Restrictions on diversion of water.

80. The distribution of the water supply for mining purposes in any district shall be left to the discretion of the Commissioner of Mines, who shall regulate the same in such manner as he may consider fair and reasonable, having regard to the rights of private owners and as may be advisable in the public interests.

Distribution of water supply.

Subject to the foregoing, and as far as may be practicable, the following order of priority shall be observed in all questions relating to water rights:—

Priority of claims to water.

1. Water for domestic use.
2. Water for the treatment and washing of minerals already mined.
3. Water for power purposes.
4. Water for ground sluicing or hydraulicing.

PART VIII.

Machine Stands.

81. Any person desirous of erecting machinery or plant for the treatment of minerals in connection with mining operations (or for such other purpose in connection with mining operations as the Commissioner of Mines may permit), or for obtaining a site for the deposit of tailings or refuse, may be granted a site for such purpose, to be called a machine stand, of the size and upon the conditions provided for in this Act and the Regulations. He shall beacon off the site applied for, and lodge his application and diagrams in such manner as may be provided under the Regulations: Provided, however, that any such machinery or plant may be erected, or tailings deposited on any registered mining claim by the holder thereof, without its being necessary for such holder to apply for a machine stand: Provided, further, that in the case of private lands compensation shall be determined and paid to the owner of any land taken for the purposes of this section, in accordance with the provisions of the Lands Clauses Consolidation Law 1872.

Procedure for obtaining machine stands.

Compensation to owner of private lands.

82. The area granted as a machine stand shall not exceed five acres, for which a license fee of Ten Shillings per month shall be payable and renewable, as in the case of other license fees.

Limit of area and fee.

83. Every machine stand shall be registered at the Mines Office of the District in which it is situated, in a book to be kept for the purpose, and a fee of One Pound shall be paid for such registration, and a certificate of title to the said machine stand in the form of Schedule H, with surveyor's diagram attached thereto, shall thereupon be issued to the holder, and signed by the Commissioner of Mines.

Registration.

Act 43, 1899.

Rights of holder. Mining under stand.

84. A machine stand shall only convey a right to the surface of the ground so held, and it shall be lawful for the Commissioner of Mines to grant to any person otherwise duly licensed a license to mine under such stand: Provided that such person shall be liable for any damage caused at the surface which is due to mining underground: Provided, further, that the owner of such stand shall receive notice of any application for such license, and shall himself have the prior right to such license, if he applies for the same within one month after the receipt of the aforesaid notice.

PART IX.

Residential Sites.

Who may obtain site.

85. The registered holder of a prospecting and mining claim or machine stand may be granted a Residential Site on Crown Lands, if there be any such, in proximity to his holding, in accordance with the Regulations, provided the area of such residential site shall not exceed one acre in extent.

Rights of holder.

86. A residential site shall only convey a right to the surface of the ground so held, and shall not debar any person from applying for and obtaining the right to mine under such site, provided that such person shall be liable for any damage caused at the surface which is due to mining underground.

PART X.

Transfers.

Procedure to effect transfer.

87. The holder of a licensed holding registered under this Act may cede and transfer the same, and the right, title, and interest therein, by cession duly executed in the form of Schedule I., or other legal document, but no cession of any such registered holding shall be recognised by the Commissioner of Mines unless and until it has been duly filed in the Mines office of the district in which such licensed holding is situate, and registered in a book to be kept for the purpose: Provided that the cession of any licensed holding may carry with it the transfer of all the licenses then current relating to the same.

Endorsements on certificates of holding.

88. Upon the registration of any such cession as aforesaid, the Deputy Commissioner of Mines shall endorse such cession upon the certificate of title or of registration of such licensed holding in the form of Schedule J, and further shall endorse the said transfer of the said licenses in form of Schedule K.

Fee for registration of cession.

89. The fee for the registration of every document of cession as aforesaid shall be the sum of One Pound whether the same includes the cession of one or more licensed holdings, and the fee for the endorsement on each certificate of title or of registration shall be the sum of Two Shillings and Sixpence for every such endorsement.

Exemption of price of gold, silver, &c., from transfer duty.

90. Whenever any land owned by any person is sold, and the price paid or to be paid for such land includes a value put upon any gold, silver, or precious stones supposed to be in or upon the said land, no transfer duty shall be charged or exacted by the Registrar of Deeds or other receiver of transfer duty in respect of the price or value of such gold, silver, or precious stones, anything contained in Laws No. 5, 1860, and No. 19, 1883, to the contrary notwithstanding.

Value of the gold, silver, &c., to be appraised.

91. Such exemption from the payment of transfer duty shall be claimable only in respect of such portion of the purchase price as represents the estimated value put upon the gold, silver, or precious stones by the declaration on oath of a sworn appraiser appointed by the Registrar of Deeds for the purpose of making such valuation: Provided

that in every case transfer duty shall be payable on the value of the land, estimated at an amount of not less than the upset price per acre of Crown Lands at the date when the sale took place. **Act 43, 1899.**

PART XI.

Miscellaneous Provisions.

92. The following lands are exempted from the operation of this Act, except in so far as is otherwise specially provided:—

- (a) All lands upon which any public squares, streets, roads, railways, burial grounds, graves, or gardens exist, and all other lands which shall have been, or hereafter shall be, reserved or dedicated for any public use or purpose: Provided that it shall be lawful for the Governor in Council to declare the ground underlying such lands to be under the operation of this Act, under such circumstances, for such purposes, and to such extent, and subject to such conditions, limitations, and restrictions as he may consider expedient, and as shall be consistent with the proper use of the overlying land. **Lands exempted from operation of Act. Lands dedicated to public purposes.**
- (b) Lands within any borough or township established under Laws 19, 1872, or 11, 1881, respectively, or any like Act; lands within any township established by Proclamation in Zululand before the annexation of that territory to Natal; and the lands of any town or village, which may by Proclamation be brought within the operation of this sub-section: Provided that any Town Council or Local Board or other town or village authority, which may hereafter be lawfully constituted, may with the consent of the Governor in Council, and subject to such conditions as he may impose, by public competition grant the privilege of digging and working any mines or minerals on any public lands of the borough, township, town, or village. **Urban lands.**
- (c) All land within a distance of 150 yards from any building, including native kraals, which building is in the opinion of the Deputy Commissioner in actual use or occupation, as also all water furrows, fenced gardens, orchards, or cultivated lands, or plantations: Provided, however, that the owner of any such land so exempted as aforesaid may in consideration of compensation waive all claim to such exemption. **Homestead lands, kraal lands, gardens, &c.**
- (d) Mission buildings and any plantations or cultivated lands adjacent thereto. **Mission buildings and plantations. Exemption lost by user.**

93. If any of the lands mentioned in sub-sections (b), (c), and (d), shall be used by the owner, or as otherwise above provided, for the purpose of mining, they shall to that extent be excluded from the exemption given by this section.

94. No person not being of European birth or descent shall be entitled to hold any license, or to peg out or to be engaged in work on any licensed holding, otherwise than in the service and under the supervision of a duly licensed person, except as is otherwise in this Act provided. **Disabilities of persons not of European origin.**

95. The Commissioner of Mines or any Deputy Commissioner may in his discretion decline to issue or to renew any claim license or other license, or to register any claim or other licensed holding for which any person may apply if any fines, fees, or other payments due by him to the Government under this Act or the Regulations are in arrear and unpaid at the date of such application. **Persons in arrear with fees may be refused licenses, &c.**

Act 43, 1899.

Offence of pegging without license.

96. Any person who shall peg a prospecting or mining claim without a license, except as provided for in Section 10, or who may mine or in any other way obtain, win, or remove any minerals from any land except under the provisions of this Act, shall be liable to a fine of not exceeding Fifty Pounds for each offence, or on failure to pay such fine, to imprisonment with or without hard labour for any period not exceeding one year.

Pegging off claims of a higher order on holdings of a lower order.

97. If at any time it shall come to the knowledge of the Commissioner of Mines (a) that there exist, or are likely to exist, alluvial minerals or precious stones on any claim already registered as a Mineral Claim, or (b) that there exist, or are likely to exist, on any registered Mineral Claim, minerals such as would require for their prospecting or working that a Metal Claim or Claims should be pegged under the provisions of this Act, then in any such case it shall be lawful for the Commissioner of Mines in his discretion, if he considers it in the public interest so to do, to grant permission to any licensed person or persons to peg one or more Alluvial or Metal Claims, as the case may be, upon such Mineral Claims, and cause the same to be registered upon payment of the fees and in compliance with the conditions thereto applying: Provided always that before granting or refusing such permission, the Commissioner of Mines shall ascertain to what extent, if any, the "bona fide" operations of the original claimholder are likely to be interfered with, and moreover may, upon such registration, impose such conditions for the protection of the original claimholder, or otherwise, as he may think necessary.

All rights to be subject to certain reservations.

98. All rights granted under this Act shall be subject to such reservations, consistent with the general objects of this Act, as the Minister may see fit to impose in the public interests, or for the protection of any other existing rights in relation to the land over which such rights are granted, and such reservations, if any, shall be inserted in the certificate of title or of registration or other document of title issued in respect of the rights so granted.

Transfer of application.

99. An applicant for any licensed holding may, with the approval of the Commissioner of Mines and subject to any regulations affecting the same, transfer his interest in his application to any person. In the event of the death of an applicant for a licensed holding the same may be granted in the name of his lawful representative.

Death of applicant.

Record and register to be open to inspection.

100. Every officer appointed under this Act for the issue of licenses or the granting and registering of claims or other rights, shall keep a proper record and register thereof, which shall be open to the inspection of the public. For each inspection by any person a fee of One Shilling shall be charged. Such officer shall at the end of every month forward to the Commissioner of Mines a true extract of all such records and registers representing all licenses issued and claims or other rights granted, registered, or otherwise during such month.

Excessive beaconing off.

101. Any person beaconing off a larger claim than he is entitled to shall be liable to have the surplus ground cut off on any or all sides, at the option of the Deputy Commissioner of Mines, and the pegs adjusted accordingly.

Liabilities of holder of excessive area.

102. It shall also be competent for the Commissioner of Mines in his discretion to demand as fine from the holder an amount not exceeding double claim license for the period during which the claim has been registered over and above the claim license paid; and in the event of the excess ground pegged by any person as aforesaid, being equal to or exceeding in area a full claim of the same class as that pegged, the Commissioner of Mines shall have power to abandon the whole claim, including the ground wrongfully so pegged, in addition to imposing the said fine. Upon default of payment of the said fine

in any case within fourteen days of its demand, the whole claim, including the excess, may be abandoned. Act 43, 1899.

103. Any person desiring to beacon off a claim on the ground so pegged in excess may apply to the Deputy Commissioner of Mines, who shall note his application, and such applicant shall have the prior right to beacon off such excess ground against any other person upon its being cut off or abandoned under the preceding section.

Beaconing off claim on excess area.

104. Any person who, in beaconing off a claim, shall place his pegs on the claim or other licensed holding of another, shall, upon notice from the Deputy Commissioner immediately remove and adjust the pegs so wrongfully placed, and it shall be competent for the Deputy Commissioner, should he consider that such wrongful pegging has not occurred through inadvertence, to report the case to the Commissioner of Mines, who may impose a fine on such offender not exceeding the sum of Five Pounds for each peg so wrongfully placed, and in default of the payment of such fine, or of compliance with the said notice, the Commissioner of Mines may instruct the Deputy Commissioner to declare such claim to be forfeited, and the same shall be abandoned accordingly.

Wrongfully placing pegs.

105. Every claimholder shall be responsible for the beacons of his claim being continuously maintained in accordance with the Regulations, and if at any time the Deputy Commissioner shall find any claim or amalgamated block of claims not properly beacons in accordance with the Regulations, he shall report the matter to the Commissioner of Mines, who shall have the power to inflict a fine of not exceeding One Pound per claim for each offence.

Beacons of claim to be maintained.

106. Any person guilty of illegally altering, shifting, or removing the beacons or pegs of any prospecting or mining claim or other licensed holding, or in connection with any lawful application for a licensed holding, shall be punished by a penalty not exceeding One Hundred Pounds Sterling, and in default of payment shall be liable to imprisonment with or without hard labour for a period not exceeding three years.

Illegal shifting, &c., of pegs or beacons.

107. Any licensed holder shall, save as is otherwise provided in regard to Private Lands, have such reasonable rights of grazing for horses, cattle, and live stock, and the use of such wood and water as the Deputy Commissioner of Mines of the District in his discretion may see fit to grant.

Rights of grazing, wood and water.

108. All prospecting or mining claims or other licensed holdings granted under this Act shall be subject to the following reservations, without any compensation being claimable in respect thereof, save so far as injury may be caused to buildings or works:—

Reservations in favour of Government.

- (a) The right of the Government to make, construct, and use roads and railways, dams and reservoirs, and to have any telegraphs, telephones, pipes, conduits, watercourses, or any other appliances for the conveyance of water, made over or under or across any part of the land; also to lay pipes and erect railway, telegraph, and telephone stations, and all works of a like character with the foregoing, for the public use, by order of the Minister over any part of the land, with the right to any person duly authorised by the Government to enter upon such land for the purpose of constructing, repairing, inspecting, and using and maintaining any such roads, railways, dams, reservoirs, telegraphs, telephones, pipes, conduits, and watercourses, railway, telephone, and telegraph stations, and all works of a like character with the foregoing, without hindrance by the licensed holders

Servitudes of roads, &c.

Act 43, 1899.
Geological
survey.

(b) The right of the Government to prospect and bore for the purposes of geological survey.

Declaration of
find to be made
before turning
discovery to
profit.

109. It shall be the duty of every claimholder, before taking any steps to turn to profitable account any discovery or find of any mineral which may have been made on his claim, to at once make a sworn declaration in form of Schedule L of the finding of the same, and to lodge such declaration, accompanied by specimens of the mineral declared, with the Deputy Commissioner of Mines, and any person who shall fail so to do shall be liable upon conviction to pay a fine not exceeding Fifty Pounds Sterling, and in default of payment to be imprisoned, with or without hard labour, for any period not exceeding six months.

Penalty for
default.

Fraudulent
declarations.

110. Any person who shall make such declaration whilst prospecting or otherwise, knowing that the mineral declared to have been found was, by himself or some other person, placed or deposited in or on the spot, or in the soil or material dug out or removed from the spot in which such declarant was prospecting, or in which the discovery of such mineral is declared as aforesaid to have been made, and was not naturally situated in or on the spot, or in the soil or material in which they were declared to have been found or discovered, or knowing that the said mineral was not found or discovered in or on the place where it was declared to have been found or discovered, shall, upon conviction, be punished by imprisonment with hard labour for a term not exceeding five years.

Offence of
"salting."

111. Any person who shall wilfully place or deposit, or be accessory to the wilfully placing or depositing of any mineral in any spot or place for the purpose of inducing any person to make such solemn declaration as aforesaid, or for the purpose of misleading the Government or the public or any person as to the payable nature of a spot or place where minerals have been declared to have been found, shall be guilty of contravening the provisions of this Act, and shall, upon conviction thereof, be punished by imprisonment with hard labour for a term not exceeding three years.

Onus of proof
on charge of
"salting"

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

Returns of
operations.

113. The owner of any property, or holder of any claim or other licensed holding where prospecting, mining, or milling operations, or any of them, or other operations of what nature soever in connection with the treatment of minerals are being carried on, shall furnish, or cause to be furnished, to the Deputy Commissioner of Mines a true and correct return of such operations, at such times and in such form as may be provided for in the Regulations.

Sworn declara-
tions may be
demanded.

114. The Commissioner of Mines shall also have the power to demand that a sworn declaration be made by the owner of any mine, or by the holder of any claim or other licensed holding, or the person in charge thereof, concerning all such information as he may deem necessary in the interests of the Government, or otherwise to ascertain the correctness or otherwise of any return, accounts, and statements sent in to him, with full power to examine into and have access to all documents, books, and papers which he may consider it necessary and requisite to examine for that purpose.

115. The Commissioner of Mines or any person deputed by him or appointed for that purpose may, upon giving not less than fourteen days' notice to the registered proprietor, if resident within the Colony, or the occupier, if any, enter upon any lands for the purpose of prospecting and of probing and boring for the discovery of coal, and may do all acts necessary for the purposes of such prospecting, probing, or boring for the discovery of coal as aforesaid: Provided that any such notice shall not hold good for more than six months, and provided that compensation shall be made to the owner or occupier of any such lands for any damage thereby occasioned: Provided, further, that the rights conferred by this section shall not include the right of entry upon such lands with draught cattle or entire horses or entire donkeys.

Act 43, 1899.
Search by
Commissioner
of Mines for
coal.

Compensation.

The amount of such compensation shall be decided by the Magistrate of the Division or District, after due notice by the claimant to the Commissioner of Mines or his Deputy or other person, as aforesaid.

The Magistrate may after such enquiry determine the amount of compensation to be paid in respect of any such damage, and may award the amount of costs incidental to such enquiry, and determine by whom such costs shall be paid, and any sums which may be so awarded against the Colonial Government shall be a charge upon and be defrayed out of the general revenue.

116. The Commissioner of Mines or other person deputed by him shall be empowered to enter upon all lands within the Colony in which he has any reason to believe that gold or precious stones or other minerals may be found, or may be then prospected for, or upon which prospecting or mining is then being carried on, and to make any inspections of the land and of the work there being carried on, and to take such samples from such land as he may deem fit.

Commissioner
of Mines may
take samples of
gold, &c.

117. The Minister shall have the power on the application of any licensed claimholder or any person engaged in mining:—

Special powers
of Minister
for—

- (a) To enter upon and lay out a line of road upon Crown lands or upon the lands of any person, which road may be made and maintained and used by such persons upon such line and in such direction and with such fencing and for such period as the Minister may determine. A railway or tramway may be laid down and constructed (or authorised to be laid down and constructed) upon any such line of road, and be worked with locomotive engines or other motive power, or by agreement with the Natal Government Railways; and in the latter case the railway shall for the purposes of this Act be deemed to be part of the general railway system of the Colony.
- (b) To enter upon Crown lands or the lands owned by any person, and to authorise the construction thereon and therein of pits, shafts, levels, drives, tunnels, excavations, and to allow all and every kind of mining operation to be carried on.
- (c) To enter upon Crown lands or the lands owned by any person, and to authorise the cutting, constructing, and using of drains thereon, and of water races, dams, and reservoirs, and the taking or diverting water from any spring, pool, or stream situate in or flowing through such lands, and in order to use such water for mining purposes.
- (d) To exercise and authorise the exercise of any rights of the nature of servitudes in connection with mining operations upon or over Crown lands and lands owned or occupied by any person whomsoever.

Roads, rail-
ways, &c.

Mining
operations.

Water.

Servitudes.

- Act 43, 1899.** The Minister may appoint a deputy for the purpose of entry and for carrying out any of the works mentioned in this section.
- Deputy.
Incidence of costs.
- All expenses of making and maintaining any such railroad or road, of constructing any pit, shaft, level, drive, excavation, or other kind of mining operation, of constructing water races, dams, and reservoirs, and of exercising any rights of the nature of servitudes in connection with mining operations, shall in each case be borne by the applicant.
- Compensation to owner or occupier.
- If anything done or proposed to be done under the aforesaid powers shall be calculated to be, or shall be, prejudicial to the owner or occupier of any land, such owner or occupier shall be entitled to full compensation for any loss thereby sustained, or to be sustained, by him in respect of such land, from the person or persons applying to the Commissioner of Mines and doing, or proposing to do, such act; such compensation shall be determined in the manner provided by the Lands Clauses Consolidation Law, 1872.
- Powers to be exercised only in the public interest.
118. The Minister shall only exercise the powers conferred upon him by the foregoing section in such cases as he may consider it to be of advantage to the public interest that facilities and servitudes as aforesaid should be allowed to any such licensed claimholder or persons so engaged in mining.
- Filling up shafts, &c.
119. Any person who may relinquish his claim, shall be required to fill up to the satisfaction of the Commissioner or Deputy Commissioner of Mines, all shafts, pits, holes, and excavations in a manner so as to prevent persons or cattle inadvertently entering the same. It shall be competent for the Deputy Commissioner to refuse to register a new claim in the name of such person until the provisions of this section have been complied with.
- Devolution of rights on death of license holder.
120. In the event of the decease of any person possessed of any licensed holding or rights granted under this Act, the same shall upon application of his lawful representative, be registered in the name of such representative acting in such capacity: Provided such application be made within three months of the appointment of such representative, and upon payment of all fees and other moneys due at that date in respect of such licensed holding or rights, and in compliance with the provisions of this Act.
- Lien for wages.
121. Any servant working upon a claim or other holding, whose wages are in arrear, shall have a lien upon the claim or other licensed holding, and upon any buildings, plant, and the like thereon, to the extent of the wages due to him, but not exceeding three months' wages. Such lien may be registered in the Mines Office of the District, and thereupon the servant shall be deemed to be in full possession of the said claim or other licensed holding until such wages are paid and the lien fully satisfied.
- Preference of lien.
122. No sale or transfer or other disposal of any claim or other licensed holding, and no other encumbrance or lien of any kind shall take precedence of the lien for wages defined by the preceding section; and such lien shall be preferred to any claim of the Government and shall be exercised in such manner as may be determined by the Regulations.
- Removal of buildings, &c., from claim sold or abandoned.
123. The buildings, machinery, tools, materials, mining plant, and the like upon any claim or licensed holding, sold for default of payment of any moneys due to the Government, or that may have been abandoned under the provisions of this Act, shall be removed within six months of such abandonment, subject to any authorised lien thereon, and subject to the payment of all fees, fines, and other moneys that may be due to the Government in respect of such claim: Provided however that there shall not be removed or destroyed, any timber

used in and supporting the shafts, drives, galleries, and adits in the mine, or anything removed from such claim that would render unsafe or dangerous any workings thereon. Act 43, 1899.

124. If the buildings, machinery, tools, materials, mining plant, and the like, be not removed within six months as aforesaid, the Commissioner of Mines may order the removal or sale thereof, subject to the rights of any creditors: Provided, that no such buildings, machinery, and others shall be removed unless and until the provisions of Section 119 shall have been complied with. Removal by order of Commissioner of Mines.

125. The Commissioner of Mines may, whenever one hundred or more Prospecting Claims, or fifty or more Mining Claims, are pegged in close proximity and duly registered, cause a plan or map of the same, and of the immediate neighbourhood, to be prepared at the expense of the Government. Such plan or map shall include all licensed holdings and rights granted in connection with such claims and otherwise as may be practicable, but shall be for purposes of information only, and shall not be regarded as evidence of any particulars appearing therein. Plan of Mining District.

126. In the event of the discovery of mineral oil or oils in this Colony, the Governor in Council shall have the power to make, promulgate and enforce such regulations for the proper working of the wells as from time to time shall be deemed necessary. Mineral oils.

127. It shall be lawful for the Governor in Council from time to time to grant Protection Areas, Reward Claims and the like under such circumstances and subject to such conditions as may be deemed necessary. Protection areas; reward claims.

128. It shall be lawful for the Governor in Council to grant on Crown Lands to any person of European birth or descent, business and garden stands subject to regulations made in that behalf from time to time. Business and garden stands.

129. Any person paying his servant in native gold or precious stones shall be guilty of an offence, and on conviction thereof shall be liable to a fine not exceeding Five Hundred Pounds Sterling, and in default of payment, to Offence of paying in native gold or stones.

7. "Dealing in native gold prohibited at certain times and at certain places." Trading with other than Europeans in native gold or stones.

130. Any person who buys, sells, deals in or receives by way of barter, pledge or otherwise, either as principal or agent, any native gold between sunset and sunrise, or on a Sunday or on a day declared by law to be a public holiday, or at any place other than his usual place of business, shall be guilty of an offence and liable on conviction to a fine not exceeding fifty pounds or to imprisonment for a period not exceeding three months or to both such fine and imprisonment." Unlawful dealing by non-Europeans.

"Examination of premises and of stocks of native gold." Bankers and licensed traders.

(b) at any time enter and search the premises of any person suspected of being in unlawful possession of native gold." Saving of rights of non-European owners.

hereof of any minerals, metals, or precious stones, to any licensed dealer, or to the purchase by any licensed dealer of any minerals, metals, or precious stones from any such person.

134. It shall not be lawful for any person other than a banker, licensed digger, claimholder, or licensed dealer to be in possession of native gold other than in such small quantities as may be reasonably held for scientific purposes, or as mineral specimens. Illegal possession.

Act 43, 1899.

Punishment for illegal possession.

Licenses to deal in native gold or stones.

Condition of forfeiture.

Stamps on licenses.

Records by bankers and licensed dealers.

Regulations.

Provisions of regulations.

135. Any person found unlawfully in possession of native gold or precious stones shall be liable to summary arrest by any police officer or any licensed claimholder, and shall, on conviction before a Magistrate, be liable to a fine not exceeding Two Hundred and Fifty Pounds Sterling, and in default of payment, to imprisonment with hard labour for a period not exceeding eighteen months.

136. Licenses to be in possession of, and deal in, native gold and

“ Provided that no licence to be in possession of and to deal in native gold shall be issued unless the Commissioner of Police or his deputy certifies that the applicant is a fit and proper person to hold such a licence ”

for any breach of the Law and Regulations relative to the possession of and dealing with native gold and precious stones.

138. Each such license shall bear revenue or postage stamps of

“ Bankers and licensed dealers in native gold to keep register ”

139. (1) Every banker and every person licensed to deal in native gold shall keep a true and correct register in English or Afrikaans, in the form prescribed by regulation, of all native gold bought, sold, or otherwise acquired, received or disposed of or made up or manufactured by him.

(2) Every person referred to in sub-section (1) shall, on or before the fifteenth day of every month, transmit to the chief officer of police of the district in which he carries on business, a true and correct copy of the register kept by him in respect of his transactions during the preceding month together

140 with a solemn declaration of the correctness thereof, and shall upon demand, produce and exhibit to any European officer of police of or above the rank

141 of sergeant, the register kept by him in terms of sub-section (1).

(3) Any person who fails to comply with any provision of sub-section (1) or (2) shall be guilty of an offence and liable on conviction to a fine not exceeding fifty pounds or to imprisonment for a period not exceeding three months or to both such fine and imprisonment.”

(c) For providing for the mode and conditions of amalgamation of claims and water rights.

(d) For prescribing the form and position of claims.

(e) For prescribing the manner in which any race, dam, or reservoir, or any water diverted, or any machine, business, residence or garden site shall be held, occupied, used, worked, or enjoyed.

(f) For prescribing the manner in which all claims, water rights, and other licensed holdings shall be beaconsed off and registered.

(g) For the management and administration of the affairs of mining centres or districts under this Act.

(h) For regulating the construction, maintenance, and use of roads, railways, and tramways, electrical conductors, water races, dams, reservoirs, and the like.

(i) For prescribing the mode in which all surveys, diagrams, and plans shall be prepared, and the amount of fees payable, and the manner of payment of the same.

0th June
o comply

- (j) For prescribing the mode in and the terms and conditions subject to which a stream or river, or any portion of a stream or river, may be diverted from its natural course for mining purposes. Act 43, 1899.
- (k) For enforcing and regulating the drainage of claims and other licensed holdings, and apportioning the cost of same as between the holders of adjoining claims affected thereby.
- (l) For preventing the defiling and wasting of water used for domestic purposes, and for the setting apart of springs, streams, and other depositories of water, or any portion thereof, for domestic purposes.
- (m) For prescribing the character and structure of the buildings to be provided for mine employees, and for compelling the erection and proper maintenance of sufficient, suitable, and healthy dwellings for the different classes of employees.
- (n) For ensuring the supply to employees of proper, sufficient, and wholesome food and water, and of proper latrine accommodation.
- (o) For ensuring proper medical attendance and medicines for Native and Indian employees, and proper treatment of the sick.
- (p) For ensuring the due protection of the interests of employees, for regulating the hours of labour and the age below which persons may not be employed in the several classes of labour, and for providing out of the earnings of employees, or otherwise, for the creating of insurance and other funds for the benefit and relief of employees in cases of sickness, accident, and the like: Provided that no person shall be required against his will to participate in or contribute to any such fund.
- (q) For regulating and maintaining the sanitary condition, drainage, and ventilation of all mines and mine premises and buildings in connection with any mining operations and the like.
- (r) For the inspection of all quarters occupied or used by employees, and of the premises generally.
- (s) For regulating the filling up of shafts, pits, holes, and excavations, and fencing the same.
- (t) For fencing and protecting any mines, shafts, reservoirs, or other works.
- (u) For establishing registers for registering all rights, titles, and interests held under or created by this Act, and all assignments and transfers thereof, and all encumbrances and liens thereon and discharges thereof.
- (v) For regulating the granting, beaconing off, and registration of protection areas, reward claims, and the like, and for the granting of business or garden stands, and for prescribing the area, form, and position of the same, and the terms and conditions under which the same may be obtained, held, and enjoyed.
- (w) For fixing the amount and manner of payment of license and other fees payable under this Act and the Regulations not otherwise provided for.
- (x) The conditions upon which the owner of any property may acquire any works that may have been abandoned.
- (x)bis. For prescribing the form of the registers to be kept in terms of section *one hundred and thirty-nine*,
- (x)ter. For the better prevention of the theft of, unlawful dealing in or unlawful possession of native gold."

Act 43, 1899.

- (y) And generally for facilitating and more effectually carrying into execution the objects of this Act, especially in cases in which no provision, or no sufficient provision, is made for the same.

Punishment for contraventions.

142. Any person contravening any Regulation made under the foregoing section may be punished by a fine not exceeding Twenty-five Pounds Sterling, or by imprisonment with or without hard labour for a period not exceeding three months, or by both such fine and such imprisonment, and also by imprisonment in default of the payment of any fine imposed.

Further regulations for safety and healthiness of mines.

143. The Governor in Council may also from time to time, by Proclamation, make, alter, and revoke, Regulations for any of the following purposes:—

- (a) For the safe and proper working, regulation and conduct of all mines and mining operations.
- (b) For prescribing and ensuring the due observance of all precautions and rules for the protection of life and limb, and prevention of accidents, the procedure in case of accidents, the holding of departmental or other enquiries in cases of accident, and the mode of taking evidence thereon, and generally for the preservation of public health and safety.
- (c) For regulating the constitution, appointment, powers, duties, and the like, of all Boards, Prospectors' or Mining Committees, or other Associations of the kind created in pursuance of this Act.
- (d) For securing efficient and competent management and control of all mines and mining operations and machinery, for the granting, withdrawal, suspension, or cancellation, of managers' or other certificates of competency, and the like.
- (e) For prescribing the mode of inspection of all mines and mine workings, and the powers and duties to be exercised by the persons authorised to act as Inspectors in that behalf.
- (f) For the protection of the surface, and of railways, tramways, streets, roads, occupied buildings and other surface objects, which it is necessary to protect in the interest of personal safety or public traffic.
- (g) For prescribing the manner and ensuring the keeping of registers of employees and any records generally relating to any mine and mining operations, and for the making and rendering of full and correct returns and information relating to the same, and as to the quantity and value of all minerals extracted from any mine from time to time.
- (h) For providing upon whom the onus of proof shall lie in certain cases of accident, and under what circumstances the occurrence of an accident may be "prima facie" evidence of neglect and the like, and for providing upon whom responsibility shall rest in certain cases.
- (i) For the making of mine surveys, and the preparing, keeping, and furnishing of mine plans and the like, whether in relation to existing or abandoned mines and workings.
- (j) For the making and observance of special rules for the maintenance of order, discipline, and the prevention of accidents in connection with mines and any mining operations, and to make provision for such special rules

having the same force and effect as regulations made under this Act. Act 43, 1899.

And generally for all purposes whatsoever necessary or conducive to the safety and healthiness of mines.

144. No person shall be precluded by any agreement from doing such acts as may be necessary in order to comply with the foregoing section, nor shall any person be liable under any contract to any penalty or forfeiture for doing such acts as may be necessary in order to comply with the said section. Section may not be contracted out of.

145. Any person contravening any Regulation made under Section 143 of this Act, may be punished by a fine not exceeding Fifty Pounds Sterling, or by imprisonment with or without hard labour for a period not exceeding six months, or by both such fine and such imprisonment, and also by imprisonment in default of payment of any fine imposed. Punishment for contraventions of regulations under Sec. 143.

PART XIII.

Contraventions and Legal Proceedings.

146. The contravention, infringement, or wilful disregard of any obligation or prohibition imposed by this Act or by the Regulations shall be deemed an offence. Offences.

147. All offences for which no greater punishment than a fine of Fifty Pounds, or imprisonment with or without hard labour for one year is appointed, shall be cognisable in the Courts of Magistrates. How cognisable.

148. All offences for which no special punishment is appointed shall be cognisable in the Courts of Magistrates, and punishable according to the ordinary criminal jurisdiction thereof. Punishments.

149. If any offence under this Act has been committed which would not be cognisable by a Magistrate by reason of the punishment to which the same is subject, a certificate may be presented to any Magistrate, signed by the Attorney-General, to the effect that such Officer is content that such offence or act shall be prosecuted before the Court of such Magistrate, and in such case it shall be competent to such Magistrate to take cognizance of such offence or act, and to award in respect thereof so much of the punishment assigned thereto as he is empowered under the Laws defining the powers and jurisdiction of Magistrates to award: Provided that no offender shall be deprived of the right competent to defendant or prisoner under Section 5 of Law No. 16 of 1861, or of any similar Act. Special jurisdiction may be conferred on Magistrate.

150. All contraventions of this Act, other than those cognisable in the Courts of Magistrates shall be prosecuted by the Attorney-General 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 jurisdiction of the Supreme Court. Prosecutions in Supreme or Circuit Court.

151. Any money penalties imposed by this Act, or by the Regulations, may be enforced by criminal prosecution in any competent Court, or any such penalties may be sued for by a civil action at the instance of the Commissioner of Mines. Enforcement of money penalties.

152. The Commissioner of Mines may, with the permission of the Minister, waive proceedings against any person liable to a money penalty under this Act, or may demand, accept, or sue for the whole of such penalty, or any part thereof, at his discretion. Money penalties may be waived.

153. Nothing in this Act shall prevent any prosecution to which any person would but for this Act be liable: Provided that no person be twice punished for the same act. Saving.

Act 43, 1899. 154. All fines imposed by this Act shall be paid to the general
Disposal of revenue.
fines.

SCHEDULE A.

Schedule A. No..... Natal Mines Act, 1899.

Certificate of Registration of Prospecting Claim.

Office of Issue.....

This is to certify that.....of.....
is the registered holder of the Prospecting Claim undermentioned:—

Registered No.....

Date of Registration.....

*Class of Claim.....

Name of Claim (if any).....

†Lands whereon Claim is situated.....

Precise Locality and District.....

Special Conditions and Reservations (if any).....

Registration fee paid, 10s.

Dated this.....day of.....1.....

Deputy Commissioner of Mines.

Any cession of this claim must be endorsed hereon in form of Schedule J.

SCHEDULE B.

Schedule B. No..... Natal Mines Act, 1899.

Exemption License.

issued under and subject to the provisions of the Natal Mines Act, 1899,
and the Regulations framed thereunder.

Office of Issue.....

License is hereby granted to.....

of.....exempting the.....

.....‡Claim registered No.....from working conditions

for.....months from.....to.....and for

which has been paid in advance the sum of £

Dated this.....day of.....1.....

Deputy Commissioner of Mines.

Any transfer of this License must be endorsed hereon in form of Schedule K.

SCHEDULE C.

Schedule C. Reg. No..... Natal Mines Act, 1899.

COLONY OF NATAL.

Certificate of Title.

.....Mining Claim.

Know all men that I.....Minister
of....., and acting herein on behalf of and
representing the Colonial Government of Natal, do hereby grant unto
.....of....., his executors,
administrators, and assigns, the.....Mining Claim

* Alluvial, Metal, or Mineral.

† Crown, Trust, or Private Lands.

‡ Prospecting or Mining, as the case
may be.

particularly described hereunder, and indicated on the diagram hereto attached, under and subject to the provisions of the Natal Mines Act, 1899, and Regulations framed thereunder. Act 43, 1899.

Locality and District.....
Lands whereon claim is situated.....
Description (dimensions, area, boundaries, &c.).....
Special Conditions and Reservations (if any).....
Dated at.....this.....day of.....1.....
Minister.....

Witness:

Registered by me at.....this.....day of.....1.....
Registered No. of Claim.....

It is a condition of this Certificate that the claim license under which the claim is held shall be renewed from time to time, and that the provisions of the Act and of the Regulations thereunder shall otherwise be complied with.

Deputy Commissioner of Mines.

(NOTE.—Any cession of this claim must be endorsed hereon in the form of Schedule J.)

SCHEDULE D.

Natal Mines Act, 1899. Schedule D.

Notice of Entry.

To.....1.....

You are notified that I have been granted.....
Prospecting Claim License....., giving me the right to enter and prospect on the....., known as....., and that I propose to enter and prospect thereon in pursuance of such License.

Dated this.....day of.....1.....
Signature of License Holder.....

SCHEDULE E.

Natal Mines Act, 1899. Schedule E.

Notice of Application for Registration of Prospecting Claim.

Office.....1.....

To.....

Take notice that application has been made to me by.....
for the registration in his name of a Prospecting Claim as follows:—

Any objections to the registration of such claim must be lodged with me in writing, on or before the.....day of.....1.....

Deputy Commissioner of Mines.

MINES AND COLLIERIES.

Act 43, 1899.
Schedule F.

SCHEDULE F.

No..... Natal Mines Act, 1899.

Permit to obtain Prospecting Claim License for Trust Lands.

(Issued under and subject to the provisions of the Natal Mines Act, 1899, and the Regulations framed thereunder.)

.....
.....
Permission is hereby granted to.....to apply for and obtain.....Prospecting Claim Licenses applicable to the.....Trust Lands belonging to.....in the (" Division or District ") of.....

Secretary to the Trust.

Licenses issued in virtue of this Permit.

No. of License.	Date of Issue.	Office of Issue.	Signature of Officer issuing License.

SCHEDULE G.

Schedule G.

Reg. No..... Natal Mines Act, 1899.

Certificate of Title to Water Right.

A Water Right as herein mentioned and indicated in diagram attached is hereby granted to.....of.....under and subject to the provisions of the Natal Mines Act, 1899, and the Regulations framed thereunder.

Reg. No. and class of claim in connection }
with which Water Right is granted }
Precise Locality and District of Water }
Right }
Description of lands over which it is }
applied for }
Amount of water authorised to be }
diverted }
Position and dimensions of Dam, Re- }
servoir, or Pumping Station }
Special conditions and reservations (if any).....

Dated this.....day of.....1.....

Commissioner of Mines.

Water Right Registered at.....this.....day of.....1..... Under No.....

Deputy Commissioner of Mines.

Any cession of this Water Right must be endorsed hereon in form of Schedule J.

SCHEDULE H.

Act 48, 1899

No.....

Natal Mines Act, 1899.

Schedule H.

Certificate of Title to Machine Stand.

A Machine Stand as hereunder mentioned and indicated in diagram attached is hereby granted to of..... under and subject to the provisions of the Natal Mines Act, 1899, and the Regulations framed thereunder.

Reg. No. and class of claim (if any) in connection with which Machine Stand is granted }
 District and Precise Locality of Machine Stand }
 Description (dimensions, area, boundaries, &c.) }
 Special conditions and reservations (if any).....

Dated this.....day of.....1.....

.....
 Commissioner of Mines.

Machine Stand registered at.....this..... day of.....

Reg. No.....

.....
 Deputy Commissioner of Mines.

Any cession of this Machine Stand must be endorsed hereon in form of Schedule J.

SCHEDULE I.

Reg. No.....

Natal Mines Act, 1899.

Schedule I.

Form of Cession of Licensed Holding.

I.....of.....being the registered holder of.....registered numbers.....in the (" Division or District ") of.....do hereby cede and transfer the said.....and my right, title, and interest therein to.....of.....his heirs and assigns, subject to all and singular the terms and conditions under which the said.....has been held by me and I the said.....hereby accept the cession and transfer of the said.....subject to the terms and conditions aforesaid.

Dated at.....this.....day of.....1.....

.....Transferor.
Transferee.

Witness to signatures

Registered by me at.....this.....day of.....
 1.....under No.....

Fee paid 10s.

.....
 Deputy Commissioner of Mines.

Act 43, 1899.
Schedule J.

SCHEDULE J.

To be endorsed on Certificate of Title or Certificate of Registration of Licensed Holding transferred.

Natal Mines Act, 1899.

Endorsement of Cession of Licensed Holding.

The within.....Regd. No.....was on the
.....day of.....duly ceded and transferred by
.....to.....who is now the registered holder
thereof.

Reg. No. of Cession.....

Dated this.....day of.....1.....

Fee paid 2s. 6d.

.....
Deputy Commissioner of Mines.

Schedule K.

SCHEDULE K.

To be Endorsed on License.

Natal Mines Act, 1899.

Transfer of License.

The rights in this License are transferred to.....
of.....

Dated this.....day of.....1.....

.....
Deputy Commissioner of Mines.

Schedule L.

SCHEDULE L.

Natal Mines Act, 1899.

Declaration of Discovery.

I, the undersigned, do hereby solemnly declare that I did on
the.....day of.....discover.....
particulars whereof are as follows:—

Precise Locality of discovery.....

Registered No. of Claim (if any).....

Description of Mineral discovered.....

Nature and other particulars of Deposit.....

And I declare the above statement to be true in every particular
to the best of my knowledge.

The samples marked.....forwarded herewith were
found and taken by me from the place of discovery in above declaration
mentioned, and truly represent the nature of the mineral deposit there
found.

Declared before me this.....day of.....
at.....

.....Discoverer.

.....No. of Claim License.

Resident Magistrate or Justice of the Peace.

SCHEDULE M.

Act 43, 1899.
Schedule M.

Natal Mines Act, 1899.

License to deal in Native Gold and Precious Stones.

License is hereby granted to.....
to buy and sell, deal in, and to be in possession of native gold and
precious stones during the period from.....
to 31st December, 1....., for which license he has paid the sum of
£.....

This license is held subject to forfeiture for any breach of the Law
and Regulations relative to the possession of and dealing with Native
gold and precious stones.



.....
Commissioner of Mines.

Office of Commissioner of Mines,
Natal.....1.....

MINORS (A).

[See "HYPOTHECS"; "INTESTATE ESTATES"; "MARRIAGE," &C.]

Ordinance No. 4, 1846.

"Ordinance for fixing the Age of Majority within the District of Natal."

[7th January, 1846.]

1. WHEREAS it is expedient to declare the legal age of majority of all persons residing or being within the District of Natal: Be it therefore enacted, that all laws heretofore in force in the said District repugnant to or inconsistent with any of the provisions of this Ordinance shall be repealed, and the same are hereby repealed accordingly.

Repeal of repugnant laws.

Ordinance 62, 1829, of Cape of Good Hope extended to Natal.

2. And be it enacted, that from and after the taking effect of this Ordinance all and singular the clauses and provisions of the Ordinance No. 62, 1829, entitled "Ordinance for declaring the age of twenty-one years to be the legal age of majority in this Colony," shall have force and effect within the District of Natal in like manner precisely as if the same were herein again set forth, and word for word repeated, as part or portion of this Ordinance: Provided always, that in construing the said clauses and provisions, the term "this Colony," as often as the same occurs therein, shall be deemed and taken to mean the District of Natal.

Commencement

3. And be it enacted, that this Ordinance shall commence and take effect from and after such date as shall be fixed and appointed for the commencement thereof, by any Proclamation to be by the Lieutenant Governor of the District aforesaid for that purpose issued, and posted upon or affixed to any public place in Pietermaritzburg, in the said District.

Ordinance No. 62, 1829.

(CAPE OF GOOD HOPE).

"Ordinance for declaring the age of twenty-one years to be the legal age of Majority in this Colony."

[20th June, 1829.]

WHEREAS doubts have arisen as to the legal age of majority of certain of His Majesty's subjects residing or being in this Colony; and whereas it is expedient that such doubts should be removed, and that the same period of majority should be fixed for all persons whatever: Be it therefore enacted by His Excellency the Governor in Council, that from and after the passing of this Ordinance, all persons, when they shall attain, or who have already attained, the full age of twenty-one years, shall be deemed to have attained the legal age of majority.

Twenty-one years to be deemed majority.

Saving of acts, deeds, &c., prior to this Ordinance.

2. Provided always, and be it further enacted, that nothing herein contained shall extend, or be construed, to alter the term at which, in any act, deed, will, contract, or agreement, passed, executed, or

(A) As to rate of interest which a minor can claim from his tutor or guardian, see tit, "INTEREST."

As to majority of Indians, see Law 25, 1891, s. 73, tit. "IMMIGRATION (INDIAN)."

entered into prior to the passing of this Ordinance, any beneficial interest in favour of any person is provided, or declared to commence or determine. Ord. 62, 1829.

3. And be it further enacted, that nothing herein contained shall extend, or be construed, to prevent any testator from bequeathing his property in any such manner as by the laws of this Colony he might have done before the passing of this Ordinance. Testator may bequeath property as before.

4. And be it further enacted, that nothing herein contained shall extend, or be construed to prevent, any person under the age of twenty-one years, from attaining his majority at an earlier period, by operation of law (A). Attainment of majority by operation of law.

Act No. 40, 1894.

“To regulate the relative rights of Masters and Native Servants and to provide protection for such servants.”

[30th July, 1894.]

58. The minority of a native servant shall not bar the prosecution of any claim by such native against the master without the intervention of a guardian. Minor native servant may sue.

MISSIONS.

[See “ALIENS,” and “NATIVES (IN GENERAL).”]

MONEY.

[See Law 6, 1858, tit. “INTEREST” allowing free trade in money.]

(A) E.g., by marriage; see *In re Zietsman* (a minor), N.L.R. 1872, p. 104.

MORTGAGES.

MORTGAGES.

[See "BONDS (RENUNCIATIONS)."]

Law No. 17, 1866.

"To declare the rights of Mortgagees and Bond-holders on immovable property within the Colony of Natal, with reference to Judicial Sales under process of the Courts of the said Colony."

[3rd August, 1866.]

WHEREAS doubts have arisen as to the rights of mortgagees and bond-holders on immovable property specially bound or charged to them in security for moneys due on such mortgages or bonds, in cases of judgment, order, or attachment and judicial sale under process of any of the Courts of this Colony, and it is advisable to remove such doubts, and to protect such mortgagees and bond-holders from forced sales under such processes :

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows :—

Sales of immovable property to be made subject to all valid bonds thereon.

1. In all sales of immovable property under judicial process of any Court of this Colony upon unsecured debts, each such sale shall be made subject to the conditions of any and every valid mortgage or bond that may exist thereon, or to the liquidation of the full amount of every such mortgage or bond.

Courts may make orders as to conditions of sale, &c.

2. Provided, nevertheless, that upon all such sales it shall be in the discretion of the aforesaid Courts, in pursuance of the rules or regulations of such Courts, to make such orders in regard to the conditions of sale of such property as such Courts may deem fair and reasonable, whether any such mortgagees or bond-holders shall have been present or not at any meeting of creditors convened for the purpose of determining the conditions of any such sale as aforesaid.

Where property sold at instance of posterior mortgagee.

3. In any case in which any other than first mortgagees or bond-holders shall obtain any judgment, order, or attachment for judicial sale of any specially mortgaged immovable property, then every such sale thereunder shall be made subject to the full satisfaction and liquidation of all prior existing valid mortgages or bonds thereon, and subject also to the provisions of the preceding clause in respect to the conditions of sale under such process.

Commencement

4. This Law shall commence and take effect from and after the promulgation thereof in the "GOVERNMENT GAZETTE" (A).

Law No. 47, 1887.

"To amend and consolidate the Law of Insolvency."

[21st November, 1887.]

Rights of mortgagees in insolvency.

122. No merely general mortgage or general mortgage clause in any instrument executed after the promulgation of this Law, shall confer any preference on the mortgagee in respect of any property in the insolvent estate not in the lawful possession or under the control

(A) August 7th, 1866.

of such mortgagee at the date of the sequestration, and which at the time the deed was executed shall not have been delivered up to the mortgagee by deed of assignment as further security. No mortgage or pledge of movables shall confer any preference on the mortgagee or pledgee thereof until the deed constituting such mortgage or pledge is registered in the public debt registry office, and the date of such registration shall for all the purposes of this Law be deemed to be the date of the execution of any such deed: Provided that nothing in this section shall alter the common law of the Colony in reference to the pledge of movables by actual delivery to, and attention by, the pledgee, for the whole term of such pledge (A).

Law 47, 1887.

No mortgage or pledge of movables can confer preference on mortgagee until deed is registered in public debt registry office.

(A) See note to this sec. tit. "INSOLVENCY," p. 43. See also secs. 118 to 125, in connection with mortgages.

MOUNT MORELAND.

MOUNT MORELAND.

Law No. 6, 1887.

“To provide for the Holding and Management of the Town Lands or Commonage of Mount Moreland.”

[13th January, 1887.]

WHEREAS under and by virtue of “The Mount Moreland Town Lands Law, 1874,” a Board of Trustees known and designated as “The Mount Moreland Town Lands Board,” having been duly elected and constituted, are now the registered proprietors of the Town Lands or Commonage of Mount Moreland, marked D on the original plan, and containing by admeasurement 2,715 acres or thereabouts :

AND WHEREAS the said Town Lands or Commonage are held by the said Board in trust for the use, benefit, and advantage in common of the registered proprietors of such of the erven or village allotments in the town of Mount Moreland as by the deeds of transfer thereof have reserved to them a right of pasturage over the said Town Lands or Commonage :

AND WHEREAS it is desirable to define more clearly the powers and duties of the said Board, and with that object in view to repeal and re-enact, with amendments, the provisions of “The Mount Moreland Town Lands Law, 1874,” the preamble of which Law was duly proved :

AND WHEREAS a meeting of the registered proprietors of erven in the town of Mount Moreland having a right of pasturage over the Town Lands or Commonage thereof was convened in and subsequently held at Verulam on the 17th day of June, 1886, for the purpose of taking into consideration certain necessary amendments and provisions of the aforesaid Law, and such amendments and provisions were thereupon considered, and it was resolved by the said registered proprietors attending and represented at such meeting that the said Law be repealed and re-enacted with certain necessary alterations and amendments suggested therein :

AND WHEREAS the intention to apply for the passing of this Law was duly notified in terms of the Standing Rules of the Legislative Council :

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

1. The Law No. 39, 1874, entitled Law “To provide for the holding and management of the Town and Town Lands or Commonage of Mount Moreland,” shall be and the same is hereby repealed save only and except so far as regards all proceedings taken or commenced before this Law shall come into operation under or in execution of the said Law, all which proceedings shall be as valid to all intents and purposes as if this Law had not been passed ; and save also and except so far as regards all appointments, elections, rules, bye-laws and regulations made, or purporting to have been made, under the said Law, which, until revoked, altered or amended, and save so far as they are not in conflict with any of the provisions of this Law, shall continue in force and be deemed to be appointments, elections, rules, bye-laws and regulations under this Law, and save only and except so far as regards any right acquired, or thing done, or any liability accruing before the passing of this Law.

Repeal of Law
39, 1874.

2. The Board of Trustees known and designated as "The Mount Moreland Town Lands Board," elected and constituted under the provisions of "The Mount Moreland Town Lands Law, 1874," shall be, and are hereby continued to be, incorporated and declared a body corporate, and as such shall have succession in law, and a common seal, and shall and may sue and be sued by their corporate name, and shall have power and authority to hold, possess, and enjoy, with power to lease and deal with, subject, however, to the provisions and restrictions of this Law, the Town Lands or Commonage of Mount Moreland which are hereby declared to be vested in the said Board. And wherever the words "The Mount Moreland Town Lands Board" are used in any Law, transfer, lease, regulation, or document now in force in this Colony, they shall, on the taking effect of this Law, be taken to mean the Board in this Law mentioned.

Law 6, 1887.

Board of Trustees elected under provisions of Law 39, 1874, continued under style of The Mount Moreland Town Lands Board.

3. Any person being the registered owner of an erf of land at Mount Moreland originally granted by or purchased from the late Joseph Charles Byrne, or the assignees of his estate, and having a right of pasturage over the said Town Lands or Commonage, shall be entitled to elect and to vote at all meetings of erf-holders under this Law; and owners of more than one such erf shall be entitled to one vote for each erf, and, in case of an erf subdivided or owned by several persons jointly, one person may be appointed by such several proprietors to represent such erf. If any erf shall stand registered in the names of two or more persons as joint owners, one only of such joint owners, or some person deputed by them, shall be entitled to represent such erf. And if any erf shall stand registered in the name of any married woman, any minor, any person deceased, any person whose estate has been assigned, surrendered, or sequestrated, or of any person legally or actually incapable of administering his property, then the husband of such married woman, the father, guardian, or trustee of such minor, or the legal representative of such person deceased, or whose estate has been assigned, surrendered, or sequestrated, or who is legally or actually incapable of administering his property, shall be entitled to vote and represent any such erf: Provided that no erf-holder or representative of erf-holders shall have, or exercise in his own right, a greater number of votes than five. Any person holding the general power of attorney of an erf-holder may himself represent such erf-holder, or depute some other person, being an erf-holder, to represent his principal, such erf-holder, and to vote for him at all meetings of erf-holders held under the provisions of this Law.

Persons entitled to vote and represent erf at meetings of erf-holders.

4. Any erf-holder or person entitled under the provisions of this Law to attend and vote at any meeting of erf-holders, if and when absent from any meeting of erf-holders, may appoint by himself, or his duly authorised agent, any erf-holder to vote for him by proxy: Provided always that no erf-holder or his authorised agent shall give more than ten votes at one time for himself and by proxy, and such proxy shall not require to be drawn up in any particular form, but may be by simple letter of instruction, or in the form from time to time prescribed in the bye-laws in force under the provisions of this Law; and every such authority to vote by proxy shall specify the particular meeting at which it is intended that such authority shall be used and shall be produced to, and filed by, the Chairman of every such meeting with the minutes thereof. It shall not be lawful for any registered erf-holder, proxy-holder, or other person entitled to represent an erf-holder and vote at meetings of erf-holders, to vote or take part in the discussion of any matter before any meeting of erf-holders in which such erf-holder or his principal shall directly or

Representation by proxy.

Pecuniary interest beyond common interest as erf-holder debars person from voting.

- Law 6, 1887.** indirectly have any pecuniary interest beyond the general or common interest of being an erf-holder in the Township of Mount Moreland.
- Majority of Board to prevail—Quorum.** 5. All acts authorised or required to be done by the Board of Trustees shall be done by a majority of the same who shall be present at any meeting, provided that the quorum of the trustees for the transaction of business shall be five. Any change of trustees under the provisions of this Law shall as soon thereafter as possible, be registered in the office of the Registrar of Deeds of this Colony, who shall be entitled to charge a fee of two shillings and sixpence for every new trustee so registered, and no formal transfer to any such new trustee shall be necessary.
- Change of Trustees to be registered.**
- Meetings of Board and of erf-holders.** 6. The Chairman or Vice-Chairman of the Board of Trustees, may call meetings of the Board as often as occasion shall require at such place as may from time to time be provided, and in compliance with any rule or bye-law made under the authority of this Law. Meetings of the erf-holders shall as often as occasion may require, be called by the Chairman or Vice-Chairman aforesaid, and shall be ordered in terms of the rules or bye-laws above referred to. The Chairman of the Board of Trustees, or in his absence the Vice-Chairman thereof, or in his absence any member of the Board elected by a majority of those present, shall preside as Chairman at any meeting of the Board, and the person so presiding as Chairman of any such meeting shall have a vote as member of the Board, and in the event of an equality of votes, a second or casting vote. At any meeting of erf-holders the Chairman of the Board of Trustees, or in his absence the Vice-Chairman, or in his absence any erf-holder elected by a majority of the votes of those present shall preside, and the person so presiding as Chairman shall have a vote as an erf-holder, and in the event of an equality of votes, one casting vote. All acts authorised or required to be done by a meeting of erf-holders shall be done by a majority of votes: Provided that no such meeting shall be duly constituted for the transaction of business, unless seven erf-holders, or their representatives not being less than seven in number, be present thereat, and take part therein.
- Chairman to have casting vote.**
- Majority of votes at meeting of erf-holders to prevail.—Quorum.**
- Cases in which a Trustee shall be held to have vacated his seat.** 7. If and when any trustee shall cease to be a registered proprietor of a said erf, or shall absent himself from every meeting of the Board of Trustees held during a period of twelve calendar months, reckoned from the last meeting of trustees attended by him, or shall otherwise become legally incapable to act, or shall in writing resign his seat, he shall in each such case be held to have vacated his seat, and thereupon shall cease to be a member of the Board of Trustees. But any such trustee ceasing to be such shall nevertheless remain responsible or liable for any act performed by him as such trustee, or done under pretence of his office as trustee.
- Liability of Trustees.**
- Number of Trustees not to be less than seven.** 8. If and when the number of trustees shall from any such causes as aforesaid be reduced below seven, then, and in every such case, it shall be the duty of the Chairman or Vice-Chairman of the Board of Trustees forthwith to call a meeting of the said erf-holders, to be holden at such time and place as he shall appoint, for the purpose of electing new trustees in the place of the trustees whose seats have become vacant as aforesaid: Provided that no person but a registered proprietor of an erf in the township of Mount Moreland shall be eligible for election as a trustee under the provisions of this Law.
- Qualification of Trustee.**
- Board empowered to lease lands vested in them.** 9. The said Board may lease any portion of the lands vested in them and contained in the sub-division marked B on the general plan, to the extent of 1,050 acres, and also any portion of the sub-division marked A on the general plan, to the extent of 450 acres, for any term of years (absolute or determinable at the option of either

party or of one party only) not exceeding twenty-one years, unless with the special consent of the cestui que trust or owners of erven as aforesaid at Mount Moreland: Provided always, that the land leased shall not, at any one time, exceed in the aggregate 1,500 acres: Provided further that such leases shall be disposed of by public auction in lots of not less than twenty or more than fifty acres each, and so as there be obtained the best yearly rent or rents that can be reasonably had without taking anything in the nature of a fine or premium; and so as there be contained in every such lease a covenant on the part of the lessee to erect and maintain good and suitable fences, failing which he shall not be entitled to recover damages from any erf-holder of Mount Moreland for or in respect of trespass of any cattle; and so as there be contained in every such lease a condition of re-entry for non-payment, within a reasonable time to be therein specified, of the rent or rents thereby reserved; and so as the lessee or lessees do execute a counterpart thereof, and do thereby covenant for the due payment of the rent or rents thereby reserved.

Law 6, 1887.

Proviso.

Conditions to be inserted in lease.

10. The said Board may lease for building purposes any portion of the lands vested in them, and proper for the erection of any houses or other buildings thereupon, in lots of not less than two acres in extent, and for any term not exceeding ninety-nine years: Provided that each such lease shall be disposed of by public auction: Provided also that each such lease shall be by deed, and be made to take effect in possession not later than twelve months after its date. Each such lease shall reserve the best yearly rent that can reasonably be obtained without taking anything in the nature of a fine or premium, and regard being had to any money laid out, or to be laid out, for the benefit of the land, and generally to the circumstances of the case. A peppercorn rent, or a nominal or other rent less than the rent ultimately payable, may be made payable for the first five years, or any less part of the term. Each such lease shall contain a covenant by the lessee for payment of the rent and a condition of re-entry on the rent not being paid within a time therein specified. Each such building lease shall be made partly in consideration of the lessee agreeing to erect buildings, and shall contain such further and other covenants, conditions, and stipulations as the Board may from time to time find expedient.

Building leases.

To be by deed.

Conditions.

11. The erven-holders in general meeting assembled, duly convened for that purpose, shall in their own absolute discretion have full power and authority, upon just cause to them appearing, to hear and determine any and every application which may be made by any lessee and addressed in writing to the Secretary of the Board of Trustees for a reduction, remission, or rebate of any rent due and payable, or to become due and payable under the conditions of any lease granted under or recognised by the provisions of this Law. And whereas the Board of Trustees have heretofore, with the authority and sanction of a majority of erven-holders, at meetings duly convened for that purpose, granted such rebate of rent upon just cause to them appearing: And whereas doubts have arisen as to the competency of the Board to grant such rebate: Be it therefore enacted, that the said Board of Trustees be, and they are hereby, individually and collectively, indemnified and held harmless against any proceedings at law calling in question the validity of any such rebate; and such rebates are hereby ratified and confirmed, and declared to be as valid, and effectual as if they had been granted under the provisions of this Law.

Application for reduction, remission, or rebate of rent, to be determined by erven holders at general meeting.

Indemnity to Board for past acts.

12. The Board of Trustees are hereby empowered to prospect, probe, and bore for minerals in and upon any of the Town Lands or

Board empowered to prospect, probe, and bore for minerals.

Law 6, 1887. Commonage of Mount Moreland not at the time of such prospecting, probing, and boring subject to any lease granted under the provisions of this Law, and to prospect, probe, and bore for minerals in and upon such parts of the Town Lands or Commonage as may be subject to any lease or leases: Provided the consent of the lessee or lessees has been obtained thereto, and to do all acts and employ all such persons as are necessary for the purposes of such prospecting, probing, or boring for the discovery of minerals: Provided always, that such prospecting, probing, and boring have been previously authorised by a meeting of erf-holders duly convened for that purpose, and that the expenses entailed by such prospecting, probing, and boring are authorised and approved by the said erf-holders.

Powers of Board with regard to licenses to dig for minerals, leases, &c.

13. The Board of Trustees may in their discretion grant, from time to time, to any person or company applying for the same, licenses to search and dig for minerals, and leases of mines and minerals lying and being in and under any portions of the said Town Lands or Commonage, and of as much land as may be necessary and required for the proper opening and working of the same: Provided, however, that no such license or lease shall be granted in reference to land already leased for agricultural or other purposes as contemplated by this Law, unless with the previous consent in writing of the lessee or lessees whose claims, if any, to compensation shall, in the absence of any agreement, be referred to the arbitration of two indifferent persons nominated by the said Board and the said lessee respectively, and whose decision, or that of their umpire, shall be binding and conclusive: Provided that the said arbitrators shall be respectively named in the written consent of the lessee, and in an endorsement thereon to be made by the Chairman of the Board of Trustees.

Period of mining lease and conditions.

14. Every such lease shall be granted for such term of years, and upon and subject to such terms and conditions, and under such restrictions as to payment of rent and royalty, and for effectually working such mines, and such further and other conditions, covenants, and reservations as are usually contained in mining leases.

Powers of Board with regard to wood or bush.

15. The said Board shall be and they are hereby empowered from time to time, as and when they may see fit so to do, to dispose, either by public competition or otherwise, of any wood or bush upon or from the lands vested in them, contained within the sub-division marked B, and such portions of the sub-division marked A as the said Board is by this Law empowered to let on lease, and any wood or bush on the unleased portions of the sub-division marked A, shall be reserved for the household purposes of erven-holders of Mount Moreland, who have the right of pasturage over the said Town Lands or Commonage, such wood or bush to be cut and removed only in terms of any rule, regulation or bye-law made and in force under the authority of this Law.

Disposal of rents, proceeds, and moneys.

16. All rents, proceeds, and moneys, accruing under this Law shall be vested in the said Board for the benefit of the said erf-holders for the time being, to be used, administered, and disposed of by the said Board in performance of the trust by this Law reposed in them.

Expenses of procuring passing of Law.

17. The expenses of procuring the passing of this Law shall be reimbursed and paid out of the moneys to arise by virtue of this Law.

Construction and maintenance of roads.

18. The said Board shall be, and they are hereby, authorised and empowered to expend annually for the construction and maintenance of roads through the said Town Lands, a sum or sums of money not exceeding one-eighth of the net profits arising from rents and sale of wood in each year, and all surplus moneys shall be appropriated amongst the erf-holders in such manner as may be determined by any special meeting of erf-owners duly convened for that purpose. It shall

be the duty of the Board to frame a statement of the accounts of the Trust ending with the thirtieth day of November in each and every year, and as soon thereafter as may be to convene a meeting of the registered erven-holders enjoying the right of commonage aforesaid in order to present the said accounts. And at such meeting so convened as aforesaid, the distribution of any surplus funds or profits arising from the administration of the Trust property, and shown in the accounts of the preceding twelve months, shall and may be determined upon.

Law 6, 1887.
Statement of
accounts.

Distribution of
surplus funds.

19. The said Board shall, and they are hereby required from time to time to have a book or books provided and kept in which shall be entered true and regular accounts of all sums of money received, paid, or expended for or on account of the purposes of this Law, and of the several matters or things for which such sums of money shall have been disbursed and paid; and such book or books shall, at all reasonable times, be open to the inspection of every such erf-owner as aforesaid, without fee or reward.

Books of
Account.

20. All acts requiring execution by or on behalf of the Board shall be sufficiently executed by the chairman or vice-chairman under the common seal of the Board.

Acts of Board.

21. All acts, orders, and proceedings of the said erf-owners and of the said Board, at any of their meetings, shall be entered in a book to be kept for that purpose, and shall be signed by the chairman or vice-chairman; and all such acts, orders, and proceedings shall then be deemed to be original acts, orders, and proceedings; and such books shall and may be produced and read as "prima facie" evidence of all such acts, orders, and proceedings, upon any trial or information, or any proceedings, civil or criminal, and in any court or courts of law whatsoever.

Acts, orders,
and proceedings
to be entered in
book.

22. It shall be lawful for the Board of Trustees from time to time to appoint some fit and proper person, ~~not being a member of the Board~~, to be Secretary, and also to appoint such other officers as they may deem requisite and necessary, the better to enable them to perform the duties of the trust and carry into execution the provisions of this Law, and such Secretary and other officers shall respectively hold office during pleasure, and may at any time be discharged by the said Board if the said Board see cause. The Board is empowered to pay to such Secretary and other officers such salaries as the Board may deem reasonable, and such salaries and all other expenses incurred in the carrying out of the duties entrusted to the Board shall be defrayed out of the funds arising under the provisions of this Law out of the trust property.

Appointment of
Secretary and
officers.

Salaries.

23. The Register of erf-holders kept by the Board of Trustees shall be conclusive evidence as between the persons interested in the said Town Lands as to the persons entitled to vote at all meetings of erf-holders, and to participate from time to time in the distribution of the moneys belonging to the said trust, and no person not being such registered erf-holder, shall be entitled to claim any share of funds arising or derived from the said trust lands, or the beneficial occupation or use thereof, and the effect of registration shall be to empower any such registered erf-holder to enjoy the rights and privileges of an erf-holder from and after the date of such registration, but not before.

Register to be
conclusive evi-
dence of persons
entitled to vote.

24. The Registrar of Deeds shall, on the first day of December in each and every year, transmit to the Chairman of the Board of Trustees a list, in writing, setting forth the name of every person making transfer, the name of the transferee, and the amount of the purchase price in respect of all erven transferred during the preceding twelve months, and situated and being within the township of Mount

Registrar of
Deeds to make
annual return of
transfers to
Board.

- Law 6, 1887.** Moreland, and having the right of commonage thereunto annexed: Provided always that for every such transfer specified in such list the Board shall pay to the Registrar of Deeds a fee of one shilling.
- Power to make bye-laws.** 25. The said Board shall have power and authority to make, and also to repeal or alter, all such bye-laws, rules, and orders touching and concerning the use of the said Town Lands by persons entitled to use the same, and the custody and management thereof, and the prevention of trespass thereon, and the income and property thereof, and any other matter or thing relative to the same, as to them may seem fit for the effectual attainment of the objects of the said Town Lands, the security and general management of the trust property so vested in the said Board, and the proper carrying out of this Law and the more effectual exercise of the powers and authorities hereby given, and also for the ordering of their proceedings, for conducting the elections of new trustees, for convening and holding meetings of the said erf-holders; and all such bye-laws, rules, and orders shall be subject to the approval of the said erf-owners at a special meeting to be convened for that purpose: Provided always, that the bye-laws at present in use shall, until repealed, altered, or amended, be deemed to be bye-laws under the provisions of this Law, and are hereby, where not in conflict with the provisions of this Law, confirmed accordingly.
- Application of Law.** 26. Nothing in this Law contained shall be deemed to affect or apply to any right, title, or interest of Her Majesty, her heirs or successors, or of any body or bodies politic or corporate, or of any person or persons other than and except such as are mentioned in this Law, and those claiming by, from, or under them respectively.
- Law to be deemed a public Law.** 27. This Law shall be deemed and taken to be a public Law, and shall be judicially taken notice of as such by all judges, magistrates, and others, with or without being specially pleaded.
- Short title.** 28. This Law may be cited for all purposes, as "The Mount Moreland Town Lands Law, 1886."
- Commencement** 29. This Law shall commence and take effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (A).

(A) January 18th, 1887.

MUNICIPAL CORPORATIONS.

[See "DEALERS (WHOLESALE AND RETAIL)"; "DURBAN CORPORATION"
"PIETERMARITZBURG CORPORATION"; "VAGRANTS," &c., &c.]

Law No 5, 1864.

"To change the Boundaries of Boroughs in certain cases."

[16th September, 1864.]

WHEREAS it is expedient that all lands granted or hereinafter to be granted by the Lieutenant Governor of Natal to any Borough should be comprised and included within the boundaries of such Borough:

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

1. It shall and may be lawful for the Lieutenant Governor from time to time to alter the boundaries of any Borough and to define the same so as to include within the said Borough any lands granted by the Lieutenant Governor to the body corporate of such Borough.

Power to alter boundaries of Borough so as to include certain other lands.

2. All such lands when so included shall become subject to all Laws and Ordinances affecting corporation lands.

Such lands to be subject to Laws affecting corporation lands. Commencement

3. This Law shall commence and take effect from and after the promulgation thereof in the GOVERNMENT GAZETTE" (A).

Law No. 19, 1872.

"To Repeal, and Re-enact with Amendments, the Laws in regard to Municipal Corporations."

[20th December, 1872.]

WHEREAS it is expedient to amend the Laws now in force in regard to Municipal Corporations, and for such purpose to repeal and re-enact the said Laws with amendments:

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

1. This Law may be cited as "The Municipal Corporations Law, 1872." Short title.

I.—Repeal of Existing Laws.

2. The following Laws shall be, and the same are, hereby repealed; that is to say:— Repeal of Laws.

Law No. 21, 1862, entitled "Law amending and consolidating the Laws in regard to Municipal Corporations," and

Law No. 22, 1862, entitled "Law to remedy certain defects in Law No. 21, of 1862":

Provided as follows:—

(a) No Law or Ordinance heretofore repealed by the above-mentioned Laws shall revive by virtue hereof.

(b) The Corporations and Councils of Pietermaritzburg and Durban shall not be subjected to any disability whatever

(A) October 4, 1864.

Law 19, 1872.

by reason of such repeal; and no other Law affecting the said Corporations or Councils is in any wise repealed or impaired hereby: but the Mayors, Councillors, and all officers elected or holding office under the repealed Laws shall continue in, and hold such offices, subject to the provisions hereof, and of such other Laws as aforesaid.

- (c) No suit or other proceeding shall be prosecuted against the Corporations of Pietermaritzburg and Durban, or the officers thereof, or any person acting in execution of the repealed Laws for anything heretofore legally done.
- (d) All proceedings which may have been commenced under the repealed Laws before the operation hereof may be continued and completed under such Laws.
- (e) Wherever in any Law the Laws hereby repealed are mentioned or referred to, this Law shall be deemed to be meant.

II.—Creation and Constitution of Municipal Corporations.

Creation of
Boroughs.

3. Every township within the Colony, having a population of one thousand souls, may be constituted a borough, in manner hereinafter provided.

Corporations.

4. In every such borough there shall be a body corporate, which shall take and bear the name of the Mayor, Councillors, and Burgesses of such borough, and by that name shall have perpetual succession, and shall have a common seal, and shall, by the Council thereof, do all acts, and have and enjoy all the rights and privileges as hereinafter set forth.

The Council.

5. The Council shall consist of a Mayor and Town Councillors, to be elected as hereinafter provided; and it shall be competent for the Council to pay, from out of the borough fund, to the Mayor, as long as he shall hold office, a sum of money not exceeding £100 per annum as table allowance (A).

Mayor's table
money.

Proclamation of
Borough.

6. Whenever the population of any township shall amount to one thousand souls as aforesaid, the Lieutenant Governor may, by proclamation, declare the same to be a borough, within the meaning of this Law, and define the boundaries thereof; and may, immediately after the first election of the Council of the said borough, by grant under his hand and the public seal, grant and convey to the body corporate thereof such lands situate within and near the town as to him may seem just and proper. (A)

III.—Division of Boroughs into Wards.

Division into
wards.

7. Every borough shall be divided into at least four wards: Provided always that the number of the wards may be increased as hereinafter provided.

Proclamation of
wards.

8. Before the first election of a Mayor and Councillors for any borough under this Law, the Lieutenant Governor shall, by proclamation, divide the said borough into wards, and declare the names and boundaries thereof.

Councillors.

9. Two councillors shall be elected for each ward in manner hereinafter mentioned.

Alterations in
names and
boundaries of
wards, and
increase in
number.

10. After the first election as aforesaid, the Council may, from time to time, if they shall think fit, alter the names and boundaries of such wards; and may, if the increase of the population of the borough render it necessary, increase the number of the wards of the

(A) See clause added to this sec. by Law 13, 1884, post, empowering the Council to increase the table money.

borough from four to any other number, as to such Council may seem expedient; and for the purpose may alter, or wholly change, the boundaries and limits of any ward or wards then existing: Provided, however, that in case of an increase in the number of wards having taken place it should afterwards be deemed desirable to reduce such number, it shall be competent for the council of any borough so to do, provided that the number of wards in such borough shall not be reduced below four, and that the reduction shall not take place unless resolved on by a majority of councillors at a meeting specially convened for that purpose, of which one month's prior notice has been published in the "GOVERNMENT GAZETTE," and at which not less than three-fourths of their number are present, and that such resolution shall receive the sanction of the Lieutenant Governor; and, in the event of such reduction in the number of wards in any borough taking place, then the boundaries and limits of the wards thereof may be altered or wholly changed.

Law 19, 1872.

How number of wards may be reduced.

11. In every case in which the wards of any borough shall be increased as aforesaid, the council of such borough shall also be increased in number, at the election next following the time of such increase of wards held for the election of councillors for the borough, so as that there shall be two councillors for every ward, and for each additional ward created as aforesaid; and in every case in which, after the wards in any borough shall have been increased they shall again be reduced, then at the election of councillors for the borough next following the time of such reduction there shall be a proportionate reduction also in the number of such councillors, so that no more than two councillors shall be elected for each ward.

Number of Councillors to be increased or decreased in proportion to number of wards.

§ IV.—Qualification of Electors:

12. Every male person, except as hereinafter excepted, of the age of twenty-one years, being duly enrolled in manner hereinafter mentioned, who possesses (A) any immovable property of the value of fifty pounds, or who shall have rented, for a continuous period of three months, prior to the first day of June in this and every year, any such property of the yearly value of ten pounds, within any ward, shall be qualified to vote at the election of councillors for such ward.

Qualification of voter.

13. Where any such property as aforesaid is jointly occupied by more persons than one, as proprietors or renters, each of such joint occupiers shall, being duly enrolled, be entitled to vote under this Law in respect of such property, provided the value or the rent, as the case may be, of such property, shall be an amount which, when divided by the number of such joint occupiers, shall give fifty pounds, or ten pounds, as the case may be, for every such joint occupier.

Joint occupiers.

14. The following persons shall not be qualified to vote at any such elections:—

Persons disqualified from voting.

- (a) Persons who shall not, prior to the first day of June in each year, have paid all municipal rates and municipal rents due by them (B).
- (b) Persons who have been convicted of treason, felony, or infamous offence, and who shall not have received a free pardon.

(A) This does not apply to a possession merely in trust for another (*Platt v. Durban Corporation*, 9 N.L.R. 152).

(B) A person owning or occupying property in more than one ward of a borough, if he is in arrear with the rates

payable by him in respect of any such property, is thereby disqualified from voting at an election of councillors for any such ward (*Corporation of Pietermaritzburg v. Froomberg*, 15 N.L.R. 250).

Law 19, 1872.

V.—*Mode of Enrolment.*

Burgess Roll.

15. On or before the eighth day of June (A) in every year after the first election of the Council of the borough the town clerk shall make, or cause to be made, a true roll in alphabetical order of all men qualified to vote at the election of councillors for the borough, setting forth the name of each person at full length, the place of his abode, his business or quality, the nature of his qualification, and the ward or wards in which he is entitled to vote, in the form set forth in the Schedule hereto annexed marked A; and prior to said first election in any borough constituted under this Law, the Resident Magistrate shall make such list, or cause the same to be made, for the purposes of such first election.

Quarterly returns of transfers by Registrar of Deeds.

16. The Registrar of Deeds shall, on the first day of June, the first day of September, the first day of December, and the first day of March, in every year, transmit to the Town Clerk of every borough, or to any officer in that behalf appointed by the council, a list in writing, setting forth the name of every person making transfer, the name of the transferee, and the amount of the purchase price in respect of all land transferred during the quarter so expired, and situated and being within such borough: Provided always, that for every such transfer, specified in such list, the Corporation shall pay to the Registrar a fee of one shilling.

Burgess Roll to be exhibited.

17. The Mayor, or before the first election of the Council of the borough, the Resident Magistrate, shall cause two copies of the said roll mentioned in Clause 15 to be made, and shall cause one of the same to be publicly exhibited in the office of the Resident Magistrate, and the other at the office of the Town Clerk, or, in case of there being no such office, then in some other public place within the borough; and having subjoined to each a notice that on a certain day and place, to be therein set forth, and for two days immediately following such day, objections to the said roll shall be heard and determined: Provided that such day so set forth shall be some day before the eighth day of July (B) of the year then current.

Publication of notice.

18. The Resident Magistrate, or the Mayor, as the case may be, shall, in at least one of the newspapers published within any borough, forthwith notify that such burgess rolls are so exhibited as aforesaid, and shall also notify the time and place for hearing any such objections; and if there be no newspaper published in said borough, the Resident Magistrate or the Mayor, as the case may be, shall notify same by a notice under his hand, and cause such notice to be affixed upon the principal door of the Court House in such borough.

Access to Burgess Roll.

19. Every burgess of any borough shall, on application during office hours to the Town Clerk, be allowed to copy the said roll, or to make extracts therefrom, free of any cost or charge.

Correction of Burgess Roll.

20. The Resident Magistrate before the first election, and after the first election the Resident Magistrate, the Mayor, and one Councillor to be elected by the Council for that purpose, shall have the power, after hearing such objections in open court, to strike out of the roll the names of all persons not entitled to be thereon, and also to insert in the said roll the names of any persons which have been improperly omitted therefrom.

Burgess Roll to be in use for one year.

21. The roll shall be called the burgess roll of the borough, and shall be brought into use on the fifteenth day of July (C), and shall continue to be used for one year then next ensuing.

(A) Altered to "28th day of June" by Act 22, 1894, s. 25, post.

(C) Altered to "first day of August" by Act 22, 1894, s. 25, post.

(B) Altered to "28th day of July" by Act 22, 1894, s. 25, post.

VI.—*Qualification of Councillors.*

Law 19, 1872.

22. Every person shall be qualified to be elected a councillor for any borough who is enrolled as a burgess of the borough under this Law, and who is possessed, in his own right or in right of his wife, of immovable property within the borough of the value of three hundred pounds; or who shall rent one or more premises, or shall be the lessee of property within the borough of the yearly aggregate value of forty-eight pounds sterling: Provided, that the tenancy be for not less than one year; and provided that in case of joint ownership or tenancy, or ownership or tenancy in common, one person only shall be eligible if the property possessed be less than six hundred pounds in value, or if the property leased be of less than ninety-six pounds yearly value; and that if the property be of greater value, then the others of such persons may be eligible successively, in the order in which they present themselves as candidates, until the whole freehold or annual value shall be represented.

Qualification of Councillors.

23. No person shall be deemed a candidate at any election nor shall be qualified to be elected as councillor for any ward unless he has been invited to become such candidate by a requisition, signed by at least three qualified voters of such ward, and shall have transmitted such requisition, with his acceptance thereof (A), to the Mayor, or before the first election to the Resident Magistrate, at least ten days before such election is appointed to take place.

Candidates to be requisitioned.

24. No person shall sign any requisition to more than the number of candidates to be elected in the same ward; and if any person signs any requisition to more than that number, his signature shall be expunged from all requisitions which he has signed.

Restrictions on requisitions.

25. The Mayor, or before the first election the Resident Magistrate, shall, at least seven days before the day appointed for the election in each ward, cause the names of the candidates for election thereat, together with the names of the persons who have signed such requisition, to be published (B), as nearly as may be, according to the form in the schedule hereto annexed marked B.

Publication of candidates' names.

VII.—*Manner of Polling.*

26. On the first Wednesday in the month of August of each year, an election shall take place for councillors of the borough.

Elections to take place in August.

[Sections 27 to 38, inclusive, are repealed by Law No. 13, 1893, post.]

39. On the first Wednesday in the month of September in every year, the burgesses shall elect from among themselves, by a majority of votes, two persons to be auditors of the borough, who shall continue in office until the same day in the year following (c). (D)

Election of Auditors.

40. Any person nominated and appointed by the Mayor shall be returning officer at such elections; and for the purposes thereof the borough shall not be considered as divided into wards; but in all other respects the election shall be in form and manner provided for the election of councillors.

Returning officer.

41. No burgess shall be eligible as an auditor who shall be a councillor, town clerk, or treasurer for the borough, or other officer of the Corporation.

Who may be auditor.

42. If any auditor shall die, resign, or become incapable of acting, or shall be absent from the borough when his services are required,

Vacancy of office of auditor.

(A) The acceptance may be by telegraph or cable; see Act 22, 1894, s. 26, post, and see also *Prince v. King*, 8 N.L.R. 207, as to the time in which the requisition may be transmitted to the Mayor.

(B) But the candidate must first deposit £10. See Act 22, 1894, sec. 28, post.

(c) Auditors now elected for two years; see Act 22, 1894, s. 32, post.

Law 19, 1872. or if the office shall otherwise become vacant, the burgesses shall, by a majority of votes, elect from amongst themselves, on the day to be fixed by the Mayor, another auditor to fill the vacant office.

Equality of votes. 43. In case of an equality of votes at any election, the returning officer shall determine by lot which of the persons shall be elected for whom an equal number of votes has been given.

VIII.—Corporate Officers.

44. [Repealed by Act No. 22, 1894.]

Mayor to be, ex officio, a J.P. 45. The Mayor shall be a Justice of the Peace within the limits of the borough during the time he shall hold his office of Mayor, and also for one year after he shall have ceased to hold such office.

Declaration by Mayor. 46. No person elected Mayor or councillor shall be capable of acting as such until he shall have lodged with the town clerk a statement setting forth the property in respect of which he deems himself qualified as such Mayor or councillor, and shall have made and subscribed, before the Resident Magistrate or Mayor, a declaration on oath in the words following:—

“I, A. B., having been elected [Mayor or councillor, as the case may be] for the borough of _____, do hereby declare that I take the said office upon myself, and will duly and faithfully fulfil the duties thereof according to the best of my ability and judgment; and I hereby declare that I am possessed of the property qualifications set forth in Section 22 of ‘The Municipal Corporations Law, 1872.’”

Vacancy in Mayoralty. 47. In the case of any extraordinary vacancy in the office of Mayor, the Council shall meet for the purpose of electing a successor for the remainder of the year, in the manner hereinbefore provided; and at such meeting the councillors shall, from among themselves, elect a chairman, who shall have a casting vote only in the election of such succeeding Mayor: Provided, that during such vacancy in the office of Mayor, the town clerk shall have and exercise the power of convening the Council, and of calling special meetings thereof, and, at Council meetings, of putting any questions as to the election of a chairman in manner hereinafter provided.

Powers of Town Clerk.

Temporary incapacity.

48. If a Mayor, by reason of absence or illness, be incapable of discharging the duties of his office, it shall be lawful for the Council to appoint one of their number, who shall be willing so to do, to perform the same during such absence or illness; and during absence or illness of the Mayor, and until such appointment, the town clerk may convene the Council, and put any question to them.

Resignation.

49. It shall be lawful for any Mayor or councillor to resign his office at any time: Provided, that the Mayor or councillor desiring to resign shall give to the Council not less than three week's notice, in writing, of such his intention (A).

Office of Mayor or Councillor, how forfeited.

50. If any mayor or councillor shall cease to be qualified, or shall be declared insolvent, or shall apply to take the benefit of any act for the relief of insolvent debtors, or shall compound by deed with his creditors, or shall make an assignment of his estate for the benefit of his creditors, or shall neglect to attend the meetings of the Council, or of any committee, for a period of two consecutive calendar months, except in case of illness, such Mayor or councillor shall thereupon cease to be a member of the Council (B): Provided, that the Council may grant leave of absence for any period or periods not exceeding in the aggregate three months in any year to any councillor.

Offences by Councillors.

51. No member of Council (except as hereinafter excepted) shall be allowed, directly or indirectly, to become a contractor or interested

(A) See proviso added to this sec. by Act 22, 1894, s. 30, post. (B) See Act 22, 1894, s. 31, post.

in any contract made with the Council of which he is a member, either in his own name, or in the name of, or jointly with any other person, on pain of forfeiting for every such offence, for the benefit of the Corporation, any sum not exceeding Fifty Pounds, and he shall also be deemed to have thereby "ipso facto" vacated his office as councillor, and shall not be eligible for re-election as a councillor until the next general election of councillors for such borough; Provided that no councillor shall be deemed or taken to have vacated his office as councillor, or to have incurred any penalty, forfeiture, or disqualification whatever, by reason merely that the Council to which he belongs shall have entered into a contract or other dealing or transaction with the directors or other managers of any joint stock company of which such Councillor shall be a shareholder or director, or in which he shall be otherwise interested; nor shall any shareholder or person otherwise interested in any joint stock company, with which company the Council of any borough shall have entered into any past or still subsisting contract, dealing, or transaction, be deemed or taken to be ineligible to be elected or to act as a councillor of such borough by reason merely of such contract, dealing, or transaction: Provided, that it shall be lawful for any councillor to purchase at any public sale held for or on account of the Corporation to which he belongs, any property, right, or other interest which such Council shall put up to public competition; and provided also that this section shall not apply to any purchase of goods, by or on behalf of the Town Council, not exceeding twenty pounds at any one time.

Law 19, 1872

Penalty.

Provisoes.

IX.—Powers of Council.

52. The Council shall have power and authority to make any tramways, roads, streets, and bridges, and to excavate, construct, and lay water-courses, water-pipes, conduits, sluices, dams, reservoirs, drains, and other like works within the limits of the borough, and to keep the same in repair; and for such purposes, or any of them, to enter upon and conduct through and make upon any private land all or any such works as may be necessary (A): provided that such lands shall not be occupied as dwelling-houses, or shops, or as approaches to any such (B), and if any person shall be injured by any such work being made upon or through his land, the Council shall make compensation for such injury; and if such Council and the person so injured cannot agree as to the amount of compensation to be awarded, such person may apply to the Resident Magistrate of the County or Division in which the land, the subject of dispute, shall be situated; and the said Magistrate shall, after hearing the parties, assess the amount of recompense to be made for such injury; and his award so given shall be final and conclusive, and the amount thereof shall be paid accordingly by such Council to such injured person; and the said Magistrate may award costs to either party as to him may seem just, such costs to be recovered in the same way as would be costs awarded by such Magistrate in any ordinary case. And for any of the purposes aforesaid, the Council shall have power to close any street, or divert the traffic for such time as may be necessary.

Council may make certain public works.

Compensation.

Assessment of recompense.

Power to close streets and divert traffic.

Water supply.

53. The Council shall have power to regulate the supply of water within the borough, and to grant permission to lead out water from the main water-courses for irrigation or otherwise, and to charge for

(A) On the meaning of the word "necessary," there is an appeal to the Court to ascertain whether the Council are exceeding their rights—per Gallwey, C. J. (*Pietermaritzburg Corporation v.*

McCormick and Dickenson, 18 N.L.R. 52 and 233).

(B) The effect of this proviso is virtually nullified by Act 22, 1894, s. 20, post.

Law 19, 1872. this privilege such sum as the Council shall appoint, and may take such measures as may be necessary to preserve the purity of such water supply.

54. [Repealed by Act No. 22, 1894, s. 35.]

Power to establish markets.

55. The Council are hereby authorised from time to time as occasion may require, to establish at any place or places within the limits of the borough a market or markets, for the public sale of all things brought for sale thereto, and to erect, build, and keep in repair suitable buildings as market-houses, auction or sale-rooms, warehouses, and other buildings for the convenience of people attending such market or markets. The said Council (three-fourths thereof being present) at a meeting duly convened for that purpose, may make bye-laws and regulations for the more effectual exercise of the powers and authorities hereby given, and for the good rule, order, and government of said market-places, market-houses, auction-rooms, sale-rooms, warehouses, and for regulating the mode and manner of proceedings at such sales, and preserving good order thereat, and may from time to time alter and amend such bye-laws and regulations in such manner as may seem meet, and by such bye-laws may impose any penalty not exceeding five pounds (A).

And make bye-laws for same.

Market dues.

Power to recover by distress, &c.

56. It shall be lawful for the Council to impose such dues as may be reasonable upon all produce sold or brought for sale through the market-master of the borough in any market-place which the Council is hereby empowered to make and maintain; and in case of the non-payment of such dues, to levy the same by distress and sale, or institute an action for recovery of same; and the said Council may also impose and levy or recover in manner aforesaid, all rents or hire for storing any goods in any warehouse, market-house, or other building erected in connection with or for purposes of public market.

Regulation of slaughter-houses.

57. The Council may regulate the time and places for slaughtering cattle, and the state and condition of the slaughter-houses, and make regulations for the confining or killing of dogs, pigs, goats and poultry, or any dangerous or troublesome animals.

Common pasture land.

58. The Council may specify the common pasture lands, and make regulations for the care of common pasture lands, and may limit the number of cattle which each inhabitant of the borough shall be allowed to depasture in the said lands in proportion to the value of immovable property owned or leased by him within the limits of the borough.

Public pounds.

59. The Council may establish public pounds within the limits of the borough, and make all necessary arrangements for determining the manner in which cattle are to be impounded, and for assessing the damages caused by any cattle so impounded, and for determining the mode in which such damages shall be assessed and paid, and for the care and management of said pound, and for grazing and herding of the cattle impounded therein, as may from time to time be necessary: Provided, that all such arrangements and any bye-laws passed under the authority of this section, shall be uniformly applicable to all lands situated in the borough, any clause or condition in any deed of grant, transfer, or lease to the contrary notwithstanding.

60. [Repealed by Act No. 22, 1894.]

Power to officers to enter private property under warrant.

61. Whenever the superintendent of police, inspector of nuisances, or other officer of a corporation shall have reason to suspect that any

(A) The right to establish markets is a prerogative of the Crown, and when power has been given a corporation to establish markets, the right is exclusive, and private individuals have no right to establish rival markets, or in any way

interfere with or interrupt markets established by a corporation (*Corporation of Pietermaritzburg v. Lister*, 10 N.L.R. 36). See also *Durban Corporation v. Mahommedan Mosque and Madressa*, 18 N.L.R. 83.

nuisance such as the last preceding clause is intended to prevent exists on any private property, in case such superintendent, inspector, or other officer shall be refused access to the supposed site of such nuisance, he shall be entitled to a warrant under the hand of the Resident Magistrate, or if there is a Borough Court within the borough under the hand of the Mayor, empowering him to enter such private property, and to trace such nuisance with a view to abate the same, or to establish any contravention of any bye-law passed pursuant to the last preceding clause. Law 19, 1872.

62. The Council are further authorised to cause the removal of night-soil from the premises of persons living within the borough, and to require all householders from time to time to provide, at their own expense, such night-soil boxes as shall or may be found necessary for the purpose of said removal; and the Council shall be at liberty to interchange the boxes of the householders, and shall also be allowed to supply at the expense of any householder in default such box or boxes as said householder ought to have supplied; and the Council may prevent the use of any privy, closet, or cesspool intended to defeat, or having the effect of defeating the removal of night-soil from the town (A). Removal of night soil.

63. The Council are further authorised to regulate traffic and transport within the borough, and the weight of loads to be carried on roads and streets within the same, and to regulate the loading and unloading of wagons, and to prevent the keeping of wagons, carriages, or other vehicles in any street or highway for unreasonable times, and to prevent the furious riding or driving of horses or other animals, and to check improper driving of wagons, carts, and carriages in the streets or roads of the borough. Regulation of traffic.

64. The Council are further empowered to regulate from time to time the class and characters of future buildings, and the materials of which the same shall be constructed, and the distances or spaces between, or characters of walls and party-walls, and from time to time to make such regulations with respect to existing buildings as may be deemed necessary, and to prevent the unsafe or unhealthy crowding together of buildings, and to define and lay down the face-lines of streets, and to regulate from time to time the height of shafts and chimneys belonging to mills, manufactories, or other buildings within the borough, and to compel the consumption of the smoke thereof. Regulation of buildings.

65. The Council may at all times, within the limits of the borough, inspect, or cause to be inspected and examined, any carcase, meat, poultry, game, fish, fruit, vegetables, corn, bread, flour, rice, meal, sugar, coffee, ale, porter, ginger-beer, cider, perry, wine, liqueur, brandy, gin, whiskey, and rum, exposed for sale; and in case any such article as aforesaid appears to be unfit for food or drink for man, the same may be seized and destroyed by an order to that effect under the hand of the Mayor or acting Mayor. Shafts and chimneys.

66. The Council may at any time, and from time to time, in such manner as they may deem best, call upon all persons within the borough to produce the weights and measures in use by them, in order that the same may be assized and marked. Inspection of food, &c.

67. The owner of such weights and measures shall pay to the borough fund, in respect of every weight or measure assized and marked as aforesaid, a sum not exceeding sixpence each weight or measure, together with the cost of repair thereof, should such repair be needful. Weights and Measures.

(A) This sec. does not prevent the Council from supplying night-soil pails gratis to the burgesses, and raising the

general rate for such purpose. See *Topham Bros. v. Pietermaritzburg Corporation*, 6 N.L.R. 192.

Law 19, 1872.
Seizure of unjust weights, &c.

68. It shall be lawful for the Mayor, or for any two of such Council, or any person appointed by the Council for the purpose, at any time to inspect every beam, scale, weight, steelyard, weighing-machine, or other balance, and all weights and measures within the borough, and to seize and detain any such balance, or weight, or measure as aforesaid found to be deficient, or unlawful, or unjust.

Penalty for using or having unassized or false weights or measures.

69. Every person, partnership, or company, within the borough, using or causing to be used any such weight or measure as aforesaid which has not been assized as aforesaid, or having any deficient, unlawful, or unjust beam, scale, weight, steelyard, weighing-machine, or measure in his or their possession within the limits of the borough, being his or their property, or under his or their control or management, or on his or their premises, shall forfeit a sum not exceeding twenty pounds to be paid to the borough fund.

Standard.

70. The imperial weights, scales, and measures of Great Britain shall be the standard weights, scales, and measures to be used in every borough.

Issue of licenses.

71. (A) The Council shall issue the licenses required to be granted, under the following Laws and Ordinances, for carrying on the trade or business therein referred to, within the limits of any borough, and the amounts of all such licenses imposed by the said Laws and Ordinances, or any of them, or under the provisions of this Law, shall be paid to and for the use of the borough fund, that is to say:—

(a) Under the Ordinance No. 3, 1850, the annual licenses to butchers, bakers, retail shopkeepers within the borough, and to keepers of every billiard table within such borough (B).

(b) [Repealed by Act No. 38, 1896.]

Exemption.

Provided, that garrison canteens shall be, and they are hereby exempted from license duty; and provided, that the Council may, in the name of the Mayor and councillors, or in the name of any officer or person appointed by them for such purpose, prosecute in any competent court for all contraventions of said Ordinances and Law, or any of them committed within the limits of their borough: And it shall and may be lawful for the Council from time to time to make regulations 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; anything contained in said Ordinances or Law or any of them to the contrary in anywise notwithstanding: And the Council is further empowered to make regulations with respect to persons hawking within the borough goods, wares, and merchandise (not including milk, fish, poultry, or garden produce or goods manufactured by the vendor) (c), and imposing a license duty upon such persons not exceeding thirty shillings per annum for each license.

Regulations.

Hawkers.

Granting of licenses.

72. Whenever any application is by the above-mentioned Laws or Ordinances in Clause 71 mentioned, or any of them, required to be made to the Resident Magistrate, or any other officer therein designated, in order to the obtaining of such license to operate within any borough, such application shall be made to the Mayor and

(A) So much of this sec. as relates to liquor licenses is repealed by Act 38, 1896, tit. "INTOXICATING LIQUORS."

(B) The Ordinance is obsolete; see Act 43, 1898, tit. "REVENUE." See also Act 18, 1897, s. 1, tit. "DEALERS (WHOLESALE AND RETAIL)."

(C) The word "vendor" means the person who owns the goods, and not

necessarily the one actually selling them (*Superintendent of Police v. Maree*, 7 N.L.R. 57). The question was also raised before the Assistant Magistrate, Durban (November, 1900), whether cooked meat comes within the expression of "goods manufactured." It was held that it did.

councillors of such borough, instead of to such Magistrate or other officer, for and in respect of every such license within any borough, and every such license shall be signed by the Mayor, or by any person duly authorised thereto by the Council; and thereupon all the provisions of the said Law or Ordinances shall be applicable to such license, and the person holding the same, as if the said license had been applied for or granted under the provisions of the said Law or Ordinances or any of them, by any Resident Magistrate or other officer designated therein. Provided always, however, that it shall be at any and at all times competent for the Lieutenant Governor, with the advice of the Executive Council, to transfer from any Town Council to a Licensing Board, to consist of the Mayor, the Resident Magistrate of the County, and any third person nominated by the Lieutenant Governor, the power to grant licenses for the sale of wines, spirits, and fermented liquors, hereby vested in the Town Council, and again to transfer such powers from such Board to such Council; and in case such powers shall be transferred to such Board, then such Board shall have all the powers as regards the granting or refusal of licenses as but for that transfer would vest in the Town Council.

Law 19, 1872.

73. All fines for contravening the said Law or Ordinances in Clause 71 mentioned, or any of them, shall be paid to the funds of the borough, anything in said Law or Ordinances or any of them contained to the contrary notwithstanding: Provided, that such fine shall have been imposed or recovered in respect of a contravention of the said Law or Ordinances, or any of them, committed within the limits of any borough.

Fines to be paid into Borough funds.

74. The Council may make such bye-laws as they shall deem meet for the ordering of their proceedings, not being inconsistent with the provisions of this Law for conducting the elections of Mayor, councillors, and auditors, in any cases which may not be sufficiently provided for by this Law, and for determining the duties of any officers, servants, and others appointed by the Council; and all such bye-laws as to them shall seem meet for the more effectual exercise of the powers, permissions, regulations, and authorities hereby given, and for the good rule and government of the borough (A); and from time to time may alter, amend, vary, or annul such bye-laws; and may make such regulations, and determine such punishments and fines as they may consider requisite for the prevention and suppression of offences, and for the better enforcement of the said several bye-laws, and for the recovery of the costs of prosecution in cases of contravention of bye-laws; and may give power to the police or other proper officers summarily to arrest persons contravening such bye-laws, or the provisions of the Vagrancy Law, No. 15, 1869 (B), where applicable to boroughs, and lodge them in the station-house of the borough until they can be brought up for trial, and may give power to the officer in charge of such station-house to take bail in certain cases for the appearance of such persons, and for the summary trial and conviction of offenders: Provided, that no such punishment shall exceed imprisonment with or without hard labour, and with or without spare diet, for a period of three months, or a fine of £10 sterling, or imprisonment as aforesaid, in default of payment of any such fine or costs: Provided, that the bye-laws in force at the time of the passing of this Law shall, until repealed by the Council, be and continue in force as bye-laws under this Law. And provided always, that the Superintendent of Police of any borough, or other person appointed by the Council, shall and may at his own instance and without obtaining permission or certificate

Power to make bye-laws.

Contravention of bye-laws.

Bail.
Trial.
Punishments.

(A) See also Act 22, 1894, s. 18, post.

(B) See tit. "VAGRANTS."

Law 19, 1872. Who may prosecute.	from the Attorney-General, prosecute in the Resident Magistrate's Court in the borough, for all contraventions of such bye-laws and of the said Law No. 15, 1869, and of the Law or Ordinances in Clause 71 mentioned; provided such contraventions be committed in the borough.
Validity of bye-laws.	75. No bye-laws shall be made unless two-thirds of the whole number of members constituting the Council for the time being shall be present; nor shall any such bye-laws be of any force until they shall have been confirmed by the Lieutenant Governor, and shall have been published in the "NATAL GOVERNMENT GAZETTE": Provided that no bye-law to be passed by the Council shall be repugnant to this Law, or to the general spirit and intent of the Laws in force within the Colony.
Power to raise money, and exchange lands.	76. The Council may, with the consent of the Lieutenant Governor in writing, raise by debentures, or by the sale by public competition of any land, or by the mortgage of rates or revenues belonging to the Corporation, any sum of money which shall be necessary in order to carry on any public work; and may exchange any portion of the Corporation lands for other lands within the limits of the borough, for public purposes.
Power to lease lands.	77. The Council may, with the consent of the Lieutenant-Governor, lease any portion of the lands belonging to the Corporation for any period not exceeding fifty years, with or without an option of purchase at such price and upon such conditions as may be approved by the Lieutenant-Governor, and with or without an undertaking to renew such lease, as provided in clauses succeeding: Provided, that the Council shall, at least one month previously to such intended lease, cause to be published a full and clear statement of the situation, nature, and extent of such land, which shall be sold by public competition; and may be so sold by the town clerk, market master, or other officer appointed by the Council, without taking out a license, and without being liable to the duties or percentage imposed by law on auctioneers selling under a license (A).
Renewal of leases.	78. The Council may, from time to time, renew any such lease, or any lease now subsisting, for any period not exceeding fifty years, provided there shall be buildings on the ground of the then value of £500, in any case in which the lessee shall, two months previously to the expiration of such lease, give notice of his intention so to renew such lease.
Mode of fixing rent on renewal.	79. The Council may, on application for the renewal of any such lease, cause the then annual rental of the lease in respect of which such renewal is sought, exclusive of the buildings thereon, to be estimated either by mutual agreement between the Council and the applicant for renewal, or, in case of difference of opinion, then by arbitration, as follows: one arbitrator to be named by the Council, and one by such applicant; and in case of difference between such arbitrators, then such arbitrators shall name an umpire by mutual agreement, or by lot, as the case may require, the lessee paying every expense of the new lease, including the arbitrators' and umpire's fees.
Result of arbitration final.	80. The decision of the said arbitrators when unanimous, or, in case of their disagreeing, of the umpire, shall be final and binding, as between the said Council and the said applicant for renewal.

(A) See *In re Pietermaritzburg Corporation*, 19 N.L.R. 219, where leave was granted to the Colonial Secretary to bid at a public auction for a lease of portion of the Market Square, on behalf of the Government. (The question of the right

to lease the Market Square was not settled by the granting of leave).

With regard to leases of certain Durban lands, see Law 27, 1884, tit. "DURBAN CORPORATION."

81. The Council may, with the consent of the Lieutenant-Governor, and by public competition, lease the privilege of digging and working any mines or minerals on any land belonging to the Corporation (A). Law 19, 1872.
Minerals.
82. All acts and deeds of transfer, mortgage, and other bonds proper for registration, may be passed and signed by the Mayor or acting Mayor of any borough, or by his attorney or agent duly authorised in that behalf, in the name of the Council, and under the corporate seal; and every act and deed so passed shall be valid and binding upon the Council, and their successors in office. Execution of
deeds.
83. The Council may appoint and maintain such number of borough policemen, constables, and watchmen, as to them may seem fit or necessary; and may from time to time make such rules and regulations touching the pay, clothing, allowances, and duties and punishment for breach of said duties of the said borough policemen, constables, and watchmen, within the borough, as to them may seem fit (B). Police.
84. The Mayor shall hold a court in every borough, which court shall be a court of record, and shall be designated the "Borough Court": Provided always, that the Mayor shall not hold such court until the Lieutenant Governor shall, by proclamation, declare the power of holding such court may be applied to any borough now existing, or hereafter to be created; and provided that no such proclamation shall be issued except on application of the Council, founded on resolution carried unanimously in a full Council, in two consecutive municipal years at meetings held with an interval of not less than three months between such meetings. Borough Court.
85. In the event of the sickness, incapacity, or absence of the Mayor, such councillor as shall be duly elected by the Council for such purpose, shall preside over and hold the said Borough Court. President of
Borough Court.
86. The Mayor and the said Borough Court shall, within the limits of the borough have all the powers, authorities, and jurisdictions, civil and criminal, as are, by any Law or Ordinance now in force, vested in or possessed by the Resident Magistrate, or in or by the court of such Resident Magistrate, as the case may be: Provided, that the said Mayor shall have no power, authority, or jurisdiction in respect of any laws in regards to the sale, purchase, dealing, or possession of firearms, gunpowder or other munitions of war; and provided that the Mayor of Durban shall not be competent to exercise the jurisdiction conferred on the Resident Magistrate of Durban by Ordinance No. 8, 1852, entitled "Ordinance to extend the jurisdiction of the Resident Magistrate of the division or county of Durban in Civil Cases" (c). Jurisdiction of
Borough Court.
87. All Laws or Ordinances now in force, or hereafter to be in force, except as aforesaid, and all rules applicable to the Resident Magistrate, or to the court of the Resident Magistrate, shall be applicable within every borough to the Mayor or to the Borough Court hereby established. Laws applicable
to Borough
Court.
88. The officers of the said Borough Court shall be appointed by the Mayor, and a majority of the councillors of every borough; and shall be paid out of the funds of every such borough. Officers of
Court.
89. The fees and charges to be taken by the officers of the said Borough Court shall be accounted for, and paid by the officers taking the same, to the borough fund: Provided, that all fines imposed by the said court, other than those by this Law directed to be paid to the borough fund, shall be paid and accounted for to the Colonial Treasury. Fees.
Fines.

(A) See also Act 43, 1899, s. 92, tit. "MINES AND COLLIERIES."
(B) See Act 1, 1894, s. 21, tit. "POLICE."

(c) Repealed by Law 22, 1889; see Act 22, 1896, tit. "COURTS (MAGISTRATES)."

Law 19, 1872.
Proclamation of
Borough Court.

90. On the proclamation of any Borough Court under this Law, the Resident Magistrate and the Resident Magistrate's Court shall cease to exercise any power, authority, or jurisdiction within the borough, in respect of any cause or action arising within the limits of the borough.

Special
jurisdiction.

91. Nothing herein contained shall repeal or abrogate the special jurisdiction of the Resident Magistrate of the division or county of Durban, conferred by the Ordinances Nos. 7 and 8, 1852 (A).

Resident Magis-
trate to retain
County juris-
diction.

92. Nothing in this Law contained shall be construed to prevent the Resident Magistrate from holding the Court of the Resident Magistrate, and from exercising the powers by law vested in him as such Resident Magistrate for the County or Division in the borough town, or at any other place within the borough.

County gaol.

93. The said Mayor and the said Borough Court shall not possess any power or jurisdiction in regard to the County Gaol, or the regulation or management thereof.

94. Every borough may establish, erect, construct, and maintain a lock-up house for the temporary detention of persons arrested, and may appoint such officers as to the Mayor and a majority of the Council of such borough may appear fit and necessary for the proper management and government thereof.

Market sales.

95. The Market Master of any borough, or other person appointed by the Council, may, on any borough market, sell by public competition any Corporation lands or leases; and may also by public competition sell, for cash only, any produce, live stock, skins, ivory, sugar, coffee, tobacco, arrowroot, wool, leather, or other products of South Africa not sea-borne from another colony, and without taking out a license, and without being liable to the duties or percentage imposed by law on auctioneers selling under a license.

X.—*Meetings of Council.*

Acts of Council.

96. All acts hereby authorised or required to be done by the Council, and all questions that may come before them, shall be done and decided by the majority of the same who shall be present at any meeting: Provided, that in no case shall the quorum of a Council be less than half the full complement of that Council.

Quorum.

Time of ordin-
ary meeting.

97. An ordinary meeting of the Council shall take place on some day within the first seven days of each and every month.

Special
meeting.

98. The Mayor may at any time call a special meeting of the Council; provided, that he cause a notice of the time and place of such intended meeting, specifying the object thereof, and signed by him, to be left at the usual abode of every councillor, or at such place within a mile of the town office as such councillor may designate twenty-four hours at least before such meeting.

Meetings open
to public.
Presidency of
meeting.

99. Every meeting of the Council shall be open to the public.

100. At every meeting, the Mayor, if present, shall preside. In case of his absence, the Council shall elect a Chairman from their number present.

Voting.

101. Every member shall give his vote on every division at which he is present, and no member shall leave the room during the time that the Mayor or Chairman is putting the question. The Mayor or Chairman shall have a second or casting vote in cases of equality of votes, except as provided for in Clauses 44 and 47.

Casting vote.

Minutes.

102. Minutes of the proceedings of every meeting shall be entered in a book to be kept for that purpose; and the minutes of every meeting shall be confirmed at the next meeting, and be signed by the Mayor or Chairman, as the case may be.

(A) See note to sec. 86, ante.

103. Every burgess shall be at liberty to inspect and make extracts from the record-book of the Council during office hours, upon payment of a fee of one shilling for each inspection. Law 19, 1872.
Inspection of
record book.

XI.—Appointments of Committees and Public Officers.

104. It shall be lawful for the Council of the borough to appoint out of their own body such and so many committees, either of a general or special nature, and consisting of such number of persons as may seem fit, for any purposes which in the judgment of the Council, would be better managed by means of a committee: Provided, that in no case shall any act of the committee be binding on the Council unless specially authorised by the Council. Committees.

105. It shall be lawful for the Council from time to time to appoint fit persons (not being members of the Council) to be Town Clerk and Treasurer, who shall respectively hold office during pleasure; and also to appoint such other officers as they shall think necessary for enabling them to carry into execution the provisions of this Law; and to pay all the officers so to be appointed, and the auditors, such salaries as the Council shall deem reasonable. Town Clerk and
Treasurer.

XII.—Regulations regarding Assessments.—Tolls and Dues.

106. For the purpose of raising the means of carrying into effect all or any of the powers hereby given to the Council of any borough, and for the payment of salaries, and the defraying of the expenses duly required to be borne by any borough, the Council shall have power, as often as shall be deemed necessary, to make and levy rates or assessments upon all or any portion of the immovable property (A) within the borough (B), in such manner as may be determined on by the Council for the time being: ~~Provided, that the mode and rate of assessment so determined upon be published by the Council in the "GOVERNMENT GAZETTE" at least one month before such rates be enforced or collected.~~ Assessments.

107. For such purpose the Council shall, as often as may be deemed necessary, cause a valuation to be made of all or any part of the rateable property within the borough; and shall cause the same to be published at the town office, and in one at least of the local newspapers (c). Valuation.
Publication of
Roll.

108. The Council shall annually make an estimate of the amount of money required for the service of the municipal year, and shall assess the general borough rate accordingly: and the Council shall give public notice of all estimates of moneys required for municipal purposes, and of all rates assessed under the authority of this Law, by publishing the same at the town office, and in one at least of the local newspapers. Annual esti-
mate.

109. At any time within one calendar month from and exclusive of the day of the date of such publication, it shall be lawful for any person (d) who shall think himself aggrieved by any such assessment or valuation, or by reason of his name appearing as a ratepayer in the valuation roll, to appeal against the same to the Resident Magistrate or Mayor having jurisdiction within the borough, who are hereby authorised to hear and determine such appeal: Provided, that two clear days' notice in writing of every such appeal shall be given to Appeal against
assessment.
Notice.

(A) This includes a half-finished building (per Williams, J., *Lampart v. Durban Corporation*, N.L.R. July, 1882, p. 17).

(B) Prædial servitudes or incorporeal rights are not rateable—per Connor, C. J., in *Durban Tramways Co., Ltd. v. Durban Corporation*, 3 N.L.R. 87.

(c) The valuation under this section

is a valuation of the actual freehold value of the property at the time (*Pietermaritzburg Corporation v. Owen*, 13 N.L.R. 1).

(d) A mortgagee has the remedy provided by this sec.; so also has a purchaser, though he has not got transfer (*See of Pietermaritzburg v. Pietermaritzburg Corporation*, 6 N.L.R. 300).

Law 19, 1872. the Town Clerk of the Borough, specifying the time and place for the hearing thereof.

Exemptions from rates.

110. No rate or assessment shall be imposed upon any immovable property belonging to or in the use or occupation of Her Majesty the Queen or the Government of the Colony (A), nor on any building solely (B) appropriated to the worship of God or to the purposes of education, or any land held in trust for religious, charitable, or educational purposes (C).

Recovery of rates.

111. At the expiration of the period allowed for appeal, the Council shall appoint a fit person or persons to collect the rates due, which shall on non-payment thereof be recoverable in manner hereinafter provided; and the valuation roll shall then be "prima facie" evidence of liability by the persons named therein for the rates mentioned therein.

Evidence of liability.

Persons liable for rates.

112. The person primarily liable to the payment of rates under this Law shall be the tenant of the property rated who shall be in possession thereof at the time when such rate may be made due or recoverable; and if such property be vacant, or no sufficient distress found thereon, then the owners shall in succession be liable, but with recourse against the occupier, if any.

Duties of Collector.

113. When any rate shall have been made, and be payable, the collector of rates shall leave with the owner or tenant, in possession of each property rated, written or printed particulars of the rate to be collected in respect thereof, and which shall specify also the number and description of such property in the valuation roll, the time allowed for payment of such rate, and the consequence of default in payment (D).

Powers of Collector.

114. Every such rate shall be deemed payable to the collector authorised to receive the same; who is hereby empowered, in his own name, to receive, sue, and recover from the person liable therefor, any rate payable under the provisions hereof, or of the Laws hereby repealed.

Defaulters.

115. If, after the expiration of the time allowed for the payment of any rate to be collected under the provisions hereof or of the Laws hereby repealed in respect of any property assessed, any persons liable to pay the same shall neglect or refuse so to do, the collector of rates shall, as early as may be, lay before the Council a return specifying the names of all persons in default, and the amount of all such rates unpaid; and thereupon it shall be lawful for the Mayor, after verification of said return, to issue a requisition under his hand and the corporate seal, addressed to the Resident Magistrate, requiring him to issue writs of execution for the recovery of said amounts; and the Resident Magistrate, after the expiration of fourteen days from the receipt of said requisition and verified return, shall issue writs of execution accordingly for said amounts, together with a percentage at the rate of ten per centum on the amount of rate in each case, as and for costs incurred in and about the recovery of the sum, in addition to the fees payable to the Resident Magistrate's office.

Mode of dealing with.

(A) See proviso at end of sec. 126, and, as to how far applicable to this sec., see *Indian Immigration Board v. Corporation of Durban*, 9 N.L.R. 64.

(B) As to meaning of "solely," see *Corporation of Pietermaritzburg v. Usherwood*, 5 N.L.R. 336.

(C) This exemption held not to apply to property transferred in trust for the English Church, but let to and used by

a person as a private tenant (*Colenso v. Pietermaritzburg Corporation*, N.L.R. 1877, p. 7). But as to Pietermaritzburg Corporation, see Law 47, 1884, s. 13, tit. "PIETERMARITZBURG CORPORATION."

(D) Unless notice has been served in terms of this section, the right to be on the Burgess Roll is not forfeited (*Platt v. Corporation of Durban*, 9 N.L.R. 152).

116. Any goods and chattels found in or upon any house or land in respect whereof rates may be payable, may be distrained and sold for the payment of such rates, costs, and fees; notwithstanding that such goods and chattels may not be the property of the person or persons liable for the payment of such rates, or in the occupation or possession of such house or land, or any part thereof.

Law 19, 1872.
What goods liable to distress.

117. In respect of any rates in arrear, for the payment whereof the owner of the property rated is liable, the collector, after notice to the owner of such being in arrear, may give notice to the occupier of the property in respect of which such arrears shall be due, to pay to the collector or his authorised agent all rent thenceforward, until satisfaction shall be made thereof of such arrears; and thereupon every such occupier shall pay all rent accruing due after the service of such notice pursuant to the requisitions thereof, to the collector or his agent; and until full satisfaction of such arrears by the receipt of rent as aforesaid, and a poundage of one shilling thereon, the collector is hereby empowered to exercise all remedies which may be enforced by a landlord against a tenant for recovery of rent in arrear; and the payment of so much rent as may be required to satisfy such arrear rate and expenses as hereinafter provided shall be deemed as payment of rent by the tenant to the landlord.

Tenant may be required to pay rent to Collector.

118. When any owner or lessor of any property assessed shall, by virtue of this Law, or by contract or otherwise, be liable to payment of any rates to be collected in respect thereof, and such rates shall be required from and paid by any other person, then such person may set off the amount so paid against any rent due from him to such owner or lessor, and the collector's receipt for such rates shall be a discharge of rent and evidence of payment to the amount specified therein; if the rates so paid or satisfied shall exceed the rent due, such person may either set off such amount against accruing rent, or recover the same by action as for money paid; and if, after notice shall have been given by such person to the owner or lessor of the rates demanded, and there shall be no rent due from him in respect of the property rated, and such person shall be compelled to pay such rates, he may sue the owner or lessor for the amount as for money paid, and shall be entitled to recover the same with full costs as between attorney and client; but if the goods of any person shall have been subjected to distress and sale for the satisfaction of any rate, and no rent shall at the time be due by such person out of which such rate can be paid, then he may sue the owner or lessor or other the person who ought to have paid the rate for double the amount of the appraised value of his goods so distrained and sold, and shall be entitled to recover the same with costs as aforesaid.

Remedies of person paying rates against person primarily liable.

119. Any unoccupied houses, lands, tenements, or hereditaments, in respect of which any rate or part of any rate shall remain unpaid for one year after the same shall have become due and payable, and for satisfaction whereof no distress and sale can be made, shall thereupon become charged with such rates in arrear, together with interest at ten per centum per annum from the day when such rate became payable, which arrears and interest may be recoverable in manner following.

Arrear rates on unoccupied premises to bear interest.

120. Within two calendar months after the expiration of such year, the Town Clerk shall cause to be inserted in the "GOVERNMENT GAZETTE," and one local newspaper, particulars of every such unoccupied property, and of the arrears of rate payable with interest in respect thereof, together with a notice requiring the owner or reputed owner, by name (if known) or otherwise whom it may concern, and the mortgagee or mortgagees (if any) to make payment of such arrears within one year

Remedy in case of arrears on unoccupied property.

Law 19, 1872. from the publication of such notice in the "GOVERNMENT GAZETTE," and notifying that, in default thereof, application at the expiration of such year will be made to the Supreme Court or Circuit Court, to order such property to be sold by public auction (subject to such further notice, if any, as such Court may deem necessary) in satisfaction of all rates and interest which shall be due in respect of such property up to and at the time of such application, and of all rates that may accrue between the date of such application and such sale by public auction.

Sale of premises.

121. If, after the expiration of such notice, such arrears and interest, with all expenses which may have been incurred, shall still remain unpaid, the Supreme Court or Circuit Court, or any judge of the Supreme Court may, on petition of the Corporation, and upon proof of such arrears and interest, and that the conditions herein prescribed have been fulfilled, summarily order any such houses, lands, tenements, hereditaments, or such part thereof as shall be sufficient to satisfy such arrears, interest, and expenses, and rates subsequently accrued to be sold by public auction, and the proceeds to be paid into Court, and thereout direct payment to the Corporation of all rates in arrear, interest, and charges, together with the costs of such petition, and all expenses of sale, as a prior charge and in preference to any mortgage, security, or claim whatsoever (if any) affecting the property so sold, excepting such as shall be in existence at the date of the promulgation of this Law; and the said Court, or any Judge thereof, is hereby further authorised to direct a conveyance, in such form as shall be approved by the Master, to be executed by him or some other officer of the Court, to the purchaser of the said houses, lands, tenements, and hereditaments so sold, freed and discharged of any mortgage or encumbrance whatsoever, with the exception of existing mortgages as aforesaid; which conveyance shall vest in the said purchaser an indefeasible and legal estate in fee-simple, any outstanding legal estate, or beneficial interest, or any law or practice notwithstanding; and the surplus (if any) of the proceeds of such sale shall be deposited by the Master in the Colonial Treasury, subject to the rights of all parties interested (A).

Style of action.

122. In any action or suit which shall be brought for the recovery of any penalty, or sum of money due or payable by virtue of this Law, or for and in respect of any property, movable or immovable, vested in the said Council, or for any other matter or thing relating to this Law, by or against the said Council, it shall be lawful for the said Council to sue and be sued, by the style and description of the "Mayor and councillors of the borough of _____": Provided always, that

Indemnification of Councillors.

the said Mayor or councillors shall always be reimbursed and paid out of the Corporation funds all such costs, charges, and expenses as they shall be put to, or become chargeable with, by reason of bringing or defending such action or suit, and shall not be personally answerable or liable for the payment of the same, or any part thereof, unless such action or suit shall arise in consequence of their own wilful neglect or default.

Borough fund.

123. All moneys raised by any borough rate, all fines and fees payable under the authority of this Law, together with all sums which may be paid to the Treasurer of the borough on account of the corporate body thereof, shall form a fund, to be called the "Borough Fund," out of which shall be paid all costs and expenses, for the defraying whereof a borough rate is hereby authorised to be levied.

Rate certificates.

124. No transfer or mortgage shall be made of any immovable property situate in any borough, or passed before the Registrar of

(A) On an application for an order on the Master to pay out such monies, notice must be given to the Colonial

Government (*In re Hansonius*, 12 N.L.R. 134).

Deeds, by any vendor, mortgagor, or his agent, who shall not also exhibit to the said Registrar, with the other necessary papers, a certificate of the payment of all rates due and payable in respect to the said property; and the Registrar shall duly enter a memorandum of the same in the public register. Law 19, 1872.

125. The Treasurer of the borough shall, in books to be kept by him for that purpose, enter true accounts of all sums of money by him received and paid, and the several matters in respect whereof such sums shall have been received and paid; all such accounts, with all vouchers and papers relating thereto, together with a full abstract or balance sheet thereof, shall, yearly, at such times as the Council shall appoint, be by him produced to the Auditors, and to such members of the Council as the Mayor shall name, for the purpose of being examined and audited; such abstract or balance sheet, if found correct, shall be signed by the Auditors, and shall be forthwith published by the Treasurer in one of the newspapers of the borough. Duties of Treasurer.

XII.—Rights Reserved by the Government.

126. No wharf, dock, quay, arsenal, barracks, Government House, or other buildings or public works, or land belonging to Her Majesty, or appropriated to the use of Her Majesty's service, or to the use of the Colonial Government, which shall be situated within the limits of the said borough, shall be deemed to be part thereof for any of the purposes of this Law: Provided, that these exemptions shall not be deemed to extend to any immovable property, which, although belonging to Her Majesty the Queen, shall be possessed or occupied by any person not being a public officer, or, if a public officer, possessed or occupied by him only in his private capacity (A). Government property excluded from borough.

127. (B) And whereas, with regard to Main Trunk Roads, running through the boroughs of Pietermaritzburg and Durban, it has been determined by the Legislative Council of Natal that such roads, except as to the portion thereof within the limits of the City of Pietermaritzburg and Town of Durban respectively, and commonly known as the streets of such boroughs, should in future be constructed and maintained by the Colonial Government, at the expense of the General Revenue of the Colony, and should be under the exclusive management and control of the Colonial Government: Be it enacted that, save as aforesaid, such Main Trunk Roads traversing the said boroughs of Pietermaritzburg and Durban shall, from and after the first day of January next, be so made and maintained by, and be under the management and control of the said Colonial Government; and the Lieutenant Governor may, from time to time, after such enquiry as he may deem necessary, lay down and determine the direction and plan of any and every such Main Road, and of any alteration thereof or deviation therefrom, and may, by Proclamation under his hand, declare what shall be deemed Main Roads as aforesaid, and the same shall be so made and maintained at the expense of the General Revenue of the Colony; and the Civil Engineer of the Colony, or the officer for the time being acting as or performing the duties of Civil Engineer, shall be considered as the Engineer in the construction and alteration of all such Main Roads as aforesaid; and the Lieutenant Governor shall give such directions regarding any work or operations therein as he may deem necessary. Main trunk roads.

128. And it shall or may be lawful for the said Civil Engineer, or the officer for the time being acting as, or performing the duties Powers of Colonial Civil Engineer.

(A) See *Indian Immigration Board v. Durban Corporation*, 9 N.L.R. 64.

(B) This sec. partially repealed by Law 18, 1880, s. 2, tit. "DURBAN CORPORATION."

Law 19, 1872. of Civil Engineer for the Colony, his overseers, workmen, servants, and others authorised by him, with wagons, carts, vehicles, implements, and other requisites or conveniences, from time to time and at all times, for the purpose of making or repairing any such main road as in the preceding section is mentioned, into and upon any borough lands not then actually alienated from the Corporations of said boroughs, to enter and to excavate, dig, and remove any earth, gravel, stones, or the like, and to cut down and take any timber, wood, or bush for any such purpose, and to outspan upon any such lands, and graze their cattle thereon whilst so employed, without any payment or compensation to the said Corporations of Pietermaritzburg or Durban.

XIII.—Miscellaneous Provisions.

Notices, &c.,
how to be
published,

129. Every notice or other document required by this Law to be published, shall be published by causing a copy thereof to be inserted in one of the newspapers of the borough, unless otherwise provided for; or, if there be no newspaper in the borough, then in one of the newspapers published at the seat of Government; and a copy of the same shall also be affixed upon or near the office of the Resident Magistrate or the Town Office: Provided, that it shall not be necessary to publish statements of accounts in manner last aforesaid, but it shall be sufficient to publish such statements in the newspapers in manner aforesaid.

Mandamus and
quo warranto.

130. Every body corporate established by this Law, and every officer thereof, shall be liable to be proceeded against for any act by it or them committed or omitted by indictment, writ of "mandamus" or "quo warranto," either at the instance of the Crown, or of any private person, in the same manner as if the said borough were situated within the realm of England.

Acts of corpora-
tion not inval-
idated by non-
qualification of
Mayor or Coun-
cillor.

131. No acts, matters, or things done, or which shall be done by any corporation, shall be subsequently declared void or voidable by reason of non-qualification of the Mayor, or any councillor or councillors thereof; and no election of a Mayor or councillor shall be set aside or declared void, unless legal proceedings for such purpose shall be commenced within six weeks of the time of such election.

Power to endow
public institu-
tions.

132. Every corporation shall be, and is hereby empowered to alienate, from time to time, such portion of its town lands as it may deem necessary, or make any grant of money for the endowment, maintenance, or erection of public institutions within its borough; also may exchange any of the town lands of the borough for any other lands within the borough: Provided, that no such alienation or exchange as aforesaid shall be valid, unless such Corporation shall first obtain the consent thereto in writing of the Lieutenant Governor.

Proclamations
affecting partic-
ular boroughs.

133. The Proclamations issued by the Lieutenant Governor under the provisions of the Ordinance No. 1, 1854, defining the boroughs of Pietermaritzburg and Durban, and the Proclamations of the Lieutenant Governor dividing the said boroughs respectively into wards, shall be, and the same are hereby declared applicable to this Law.

Existing grants
of land.

134. All grants of land to the said boroughs of Pietermaritzburg and Durban under the provisions of any former Law, shall be applicable to, and shall be deemed to be, the grants of land referred to in this Law.

Burgess and
Valuation Rolls
of Pietermaritz-
burg and
Durban.

135. The enrolment and the burgess roll and valuation roll made and established under the provisions of any former Law for the said boroughs of Pietermaritzburg and Durban, shall be, and the same are hereby declared applicable to and shall be used for the purposes of this Law.

136. The Mayor and councillors and officers of the boroughs of Pietermaritzburg and Durban, elected and appointed under the provisions of any former Law, shall, on the taking effect of this Law, be, and they are hereby declared to be, the Mayor and councillors and officers respectively of the said boroughs, until the first election of Mayor and councillors or new appointment of officers provided for by this Law; and all the powers and authorities by this Law vested in the said Mayor and councillors, or officers, or in the Mayor, as the case may be, shall be applicable to and be vested in such Mayor and councillors, or officers, or in such Mayor, until such election or appointment as aforesaid; anything in this Law as to the qualification of, and the declaration of qualification by, such Mayor and councillors to the contrary notwithstanding.

Law 19, 1872.
Existing Mayor, Councillors, and officers to remain.

137. All rates, rents, or other claims of any kind due to any municipal corporations under any former Law at any time in force in this Colony, shall be considered due to such corporation under this Law, and may be sued for and recovered under this Law, to all intents and purposes as if such rates, rents, or other claims, or any of them, had become due and payable under this Law.

Recovery of former rates.

138. Any person having any claim against any municipal corporation, under any law heretofore in force in the Colony, or upon any mortgage bond, debenture, bill, note or acknowledgment of debt, or for any act, matter, or thing done, or omitted to be done by such corporation previous to the passing of this Law, may sue for and recover the same under the provisions of this Law, in any Court in the Colony having competent jurisdiction.

Claimant's rights against corporation preserved.

139. All licenses granted by or under any former Law shall be considered as granted under this Law.

Licenses confirmed.

140. This Law shall commence and take effect from and after the promulgation thereof in the "GOVERNMENT GAZETTE" (A).

Commencement

SCHEDULE A.

Form of Burgess Roll.

Schedule A.

Christian and Surname.	Place of Abode.	Quality or Business.	Ward.	Nature of Qualification.

(A) December 24, 1872.

MUNICIPAL CORPORATIONS—SCHEDULES.

Law 19, 1872.

SCHEDULE B.

Schedule B.

Names of Candidates at the Election of Councillors of this Borough, to be held on the _____ day of _____ next, together with the names of the persons who have signed requisitions to the Candidates:

Candidate JOHN SMITH.
 Requested by { WILLIAM JONES.
 { SAMUEL WILLIAMS.
 Candidate JAMES BROWN.
 Requested by { CHARLES EVANS.
 { RICHARD GREEN.

SCHEDULE C.

Schedule C.

Form of Voters' Register Book.

Name of Voter.	Names of Candidates.			
	B.	C. D.	E. F.	G. H.
A. Z.				
X. Y.				
K. D.				

Law No. 13, 1884.

"To amend Law 19 of 1872."

[6th September, 1884.]

WHEREAS it is expedient to amend Law 19 of 1872, and to enable the Town Councils of boroughs to increase the table allowance to be paid to Mayors:

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

1. Section 5 of the Municipal Corporations Law, No. 19, 1872, is hereby amended by the addition of the following words: And any further sum or sums that may be, from time to time, specially voted by a majority of two-thirds of the whole Council: Provided that such table allowance shall not exceed in the whole Four Hundred Pounds Sterling in any one year.

2. This Law shall commence and take effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (A).

Sec. 5 of Law 19, 1872, amended.

Mayor's table allowance not to exceed £400 a year. Commencement

(A) September 16, 1884.

Law No. 22, 1891.

“To extend the Municipal Corporations Law No. 19, 1872.”

[19th August, 1891.]

WHEREAS it is expedient to extend the Municipal Corporations Law No. 19, 1872, and to confer upon the Mayor and Town Councillors of every borough within the Colony increased powers with respect to the lighting of any borough by electricity, gas, or otherwise, and the supply of electricity and gas:

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

1. This Law may be cited for all purposes as “The Municipal Corporations Lighting Law, 1891.”

Short title.

2. The word “Council,” wherever occurring in this Law, shall have the same meaning as in “The Municipal Corporations Law, No. 19, 1872.”

Interpretation of terms.

The word “Person” includes Companies and Corporations.

The expression “Company” means any body of persons corporate or unincorporate.

The expression “Undertaker,” means any Company or person who shall contract with the Council and be authorised by the Council to construct and maintain electric, gas, or other works.

The expression “Electricity” means electricity, electric current, or any like agency.

The expression “Line” means a wire or wires, conductor, or other means used for the purpose of conveying, transmitting, or distributing electricity, with any casing, coating, covering, tube, pipe, or insulator, enclosing, surrounding, or supporting the same, or any part thereof, or any apparatus connected therewith, for the purpose of conveying, transmitting, or distributing electricity or electric currents.

“Public purposes” means lighting any street or any place belonging to or subject to the control of the Council, or any Church or place of public worship, or any Hall or building belonging to or subject to the control of the Colonial Government or of the Council, or any public theatre, but shall not include any other purpose to which electricity or gas may be applied.

“Private purposes” includes any purposes whatever to which electricity or gas may, for the time being, be applicable, not being public purposes except the transmission of any message by electricity.

The expression “Works” means and includes electric lines, buildings, machinery, engines, gas-pipes, gasometers, works, matters, or things, of whatever description, required to supply electricity, or gas, and to carry into effect the objects of this Law.

The expression “Street” includes any square, court or alley, highway, lane, road, thoroughfare, public passage or place within the limits in which any Undertaker, Corporation, or person is authorised by this Law to supply electricity, or gas.

3. The Council shall be and is hereby empowered to contract with any Undertaker for the supply of electricity or gas for public and private purposes within any Municipal Borough, and shall have power to authorise the execution and maintenance of any works needed for the purposes of such supply, and may empower any such Undertaker to open and break up any street, drains, or the like, and to lay down and place any lines, wires, pipes, meters and accumulators, and to erect all such buildings, and to do, execute, and perform all such works within the limits of the borough as may be necessary for such purposes, and may authorise any such Undertaker to enter upon, and to conduct

Council empowered to contract for supply of electricity or gas, and to authorise works &c.

Law 22, 1891.

and place any lines, wires, pipes, meters, accumulators, or other works through or upon any public or private land, and to enter upon any land or premises to which electricity or gas is or has been supplied, or to inspect the lines, wires, pipes, meters, accumulators, or other works for the purpose of repairing, renewing, reviving, altering, or extending the same, or for the purpose of ascertaining the quantity of electricity or gas, consumed or supplied, or for any other similar purpose: Provided, that nothing in this clause contained shall be held to prevent the exercise by the Council of the aforesaid powers.

Proviso.

Contract to contain provisions with regard to specified matters.

4. Any Contract entered into as aforesaid shall contain provisions with regard to the following matters:—

- (a) The limits within which and the conditions under which a supply of electricity or gas is to be compulsory or permissive.
- (b) The securing a regular and efficient supply of electricity or gas.
- (c) The securing the safety of the public from personal injury, from fire or otherwise.
- (d) The limitation of the prices to be charged in respect of the supply of electricity or gas.
- (e) The enforcement of the due performance of the duties of the undertaker in relation to the supply of electricity or gas by the imposition of penalties or otherwise.
- (f) The inspection and enquiry from time to time by some person duly appointed by the Council.
- (g) An indemnity to the Council against loss or damage.

Electric lines placed above ground in streets, liable to be removed if consent of Council not first obtained; and lines wherever placed may be removed by court of summary jurisdiction on complaint.

5. Notwithstanding anything in this Law, no such Undertaker contracting as aforesaid shall be authorised to place any electric line above ground, along, over, or across any street without the express consent of the Council. The Council may require the Undertaker to remove any electric line placed by him contrary to the provisions of this section, or the Council may themselves remove the same and recover the expense of removing the same from any such Undertaker in a summary manner; and where any electric line has been placed above ground by the Undertaker in any position, a court of summary jurisdiction, upon complaint made, if they are of opinion that such electric line is, or is likely to become, dangerous to the public safety, may, notwithstanding any such consent as aforesaid, make an order directing and authorising the removal of such electric line by such person and upon such terms as they may think fit.

Compensation for injury to property how determined and by whom payable.

6. In case the works hereby authorised, or the exercise of any of the powers hereby conferred, shall injuriously affect any property, the person interested in such property shall be entitled to compensation, and such compensation, failing agreement between the parties, shall be determined in manner provided by "The Lands Clauses Consolidation Law, 1872," and such compensation shall, in the first instance, be paid by the Council with recourse on the part of the Council to the Undertaker, except in so far as such recourse may be barred by any contract between the Council and the Undertaker.

Compensation for injury to telephone, how determined and by whom payable.

7. In case the works hereby authorised, or the exercise of any of the powers hereby conferred, shall injuriously affect any telephone wire or works, by induction or otherwise, the person interested therein shall be entitled to compensation, and such compensation shall be determined in the manner provided by "The Lands Clauses Consolidation Law, 1872," and such compensation shall, in the first instance, be paid by the Council, with recourse on the part of the Council to the Undertaker, except in so far as such recourse may be barred by any contract between the Council and the Undertaker.

8. In case the works hereby authorised or the exercise of the powers hereby conferred shall occasion injury to any person, compensation shall be made to such person for all damage sustained by him by reason or in consequence of the exercise of such powers.

Law 22, 1891.
Compensation to be made for injury to person

9. Nothing in this Law contained, shall prevent the Undertaker from being liable to an indictment for nuisance, or to any other legal proceedings to which he may be liable, in consequence of making or supplying electricity or gas.

Saving of prosecution for nuisance and other legal proceedings.

10. The Council shall have power from time to time to make, and when made may alter, rescind, or repeal, Bye-laws, Rules, or Regulations with respect to any of the matters aforesaid, and with respect to the use and supply of electricity or gas, and also for the proper preservation of any works connected therewith, and for injury arising therefrom: Provided, that such Bye-laws shall be subject to the approval of the Governor, as required by Section 75 of said Law No. 19, 1872.

Bye-laws.

11. Any such contract aforesaid and any Bye-laws, Rules, or Regulations to be made in terms of the preceding clause shall contain provisions for securing the immunity of the public from personal injury, from fire or otherwise, and there shall be annexed to any breach of such Bye-laws, Rules, or Regulations such penalty as may be necessary: Provided, that no such punishment shall exceed imprisonment with or without hard labour, and with or without spare diet, for a period of three months, or a fine of Ten Pounds Sterling or imprisonment, as aforesaid, in default of the payment of any such fine.

Contract and bye-laws to contain certain provisions.

12. If the Undertaker shall, at any time cause or suffer to be brought or to flow into any stream, reservoir or aqueduct, pond or place for water, or into any drain communicating therewith, any washing or other substance produced in making or supplying electricity or gas, or shall wilfully do any act connected with the making or supplying of electricity or gas whereby the water in any such stream, reservoir, aqueduct, pond or place for water shall be fouled, the Undertaker shall forfeit for every such offence a sum not exceeding Two Hundred Pounds Sterling.

Penalty for fouling of water by Undertaker.

13. The said penalty shall be recovered, with full costs of suit, in the Supreme or Circuit Court by the person into whose water such washing or other substance shall be conveyed or shall flow, or whose water shall be fouled by any such act as aforesaid; but such penalty shall not be recoverable unless it be sued for during the continuance of the offence, or within six months after it shall have ceased.

Recovery of penalty.

14. In addition to the said penalty (and whether such penalty shall have been recovered or not), the Undertaker shall forfeit a sum not exceeding Ten Pounds Sterling (to be recovered in the like manner) for each day, during which such washing or other substance shall be brought, or shall flow as aforesaid, or the act by which such water shall be fouled shall continue after the expiration of twenty-four hours from the time when notice of the offence shall have been served on the Undertaker by the person into whose water such washing or other substance shall be brought, or shall flow, or whose water shall be fouled thereby, and such penalty shall be paid to such last-mentioned person.

Additional penalty for each day of continuation of nuisance after notice given.

15. Whenever any gas shall escape from any pipe, laid down or set up or belonging to the Undertaker, he shall, immediately after receiving notice thereof in writing, prevent such gas from escaping; and in case the Undertaker shall not, within twenty-four hours next after service of such notice, effectually prevent the gas from escaping, and wholly remove the cause of complaint, the Undertaker shall for every such offence forfeit the sum of Five Pounds Sterling for each day

Penalty for neglect of Undertaker to stop escape of gas after notice given.

Law 22, 1891. during which the gas shall be suffered to escape after the expiration of twenty-four hours from the service of such notice.

Examination of pipes and works to ascertain if water fouled by Undertaker.

16. For the purpose of ascertaining whether such water be fouled by the washing or other substance referred to in Section 12 of this Law, the person to whom the water supposed to be fouled shall belong may dig up the ground, and examine the pipe conduits, and works of the Undertaker: Provided, that such person, before proceeding so to dig and examine, shall give twenty-four hours' notice in writing to the Undertaker of the time at which such digging and examination is intended to take place, and shall give the like notice to the person having the control or management of the road, pavement, or place where such digging is to take place; and the Undertaker shall be bound and obliged to re-instate the said road and pavement so broken up.

Expenses of examination, by whom to be borne.

17. If, upon any such examination, it appears that such water has been fouled by the washing or other substance as aforesaid, the expenses of digging, examination, and repair of the street or place disturbed in any such examination shall be paid by the Undertaker; but if upon such examination it appears that the water has not been so fouled, the person causing such examination to be made shall pay all expenses, and shall also make good to the Undertaker any injury which may be occasioned to the Undertaker's works by such examination.

Recovery of expenses.

18. The amount of the expenses of every such examination and repair and of any injury done to the Undertaker shall, in case of any dispute about the same, together with the costs, be recoverable in any competent Court.

Restrictions to place of manufacture and storage of gas.

19. The Undertaker shall not manufacture gas or any residual products except upon lands described in any such Contract, and shall not store gas except upon those lands without the previous consent in writing of the owner, lessee, or occupier of every dwelling house situated within three hundred yards of the site where such gas is intended to be stored.

Uniform charges to be made for supply of gas or electricity.

20. When a supply of electricity or gas is provided in any part of a Municipal Borough for private purposes, then every Company or person within that part of the Borough shall on application be entitled to a supply on the same terms on which any other company or person in such part of the Borough is entitled under similar circumstances to a corresponding supply.

Charges may be agreed upon within limits imposed by the contract.

21. The Undertaker shall not in making any agreement for the supply of electricity or gas show any undue preference to any company or person, but, save as aforesaid, may make such charges for the supply of electricity or gas as may be agreed upon, not exceeding the limits of prices imposed by or in pursuance of any contract whereby such Undertaker is authorised to supply electricity or gas.

Undertaker to supply to premises situate within 25 yards from a main.

22. The Undertaker shall upon being required so to do by the owner or occupier of any premises situated within twenty-five yards from any main give and continue to give a supply of gas, or electricity for such premises for lighting purposes, and subject to the conditions in any such contract.

Malicious injuries.

23. Any person who unlawfully and maliciously cuts or injures any line, pipe, or work, with intent to cut off any supply of electricity or gas, shall be guilty of an offence under this Law, and shall be liable to imprisonment with or without hard labour for any term not exceeding two years; but nothing in this section shall exempt a person from any proceeding for any offence which is punishable otherwise than under this section, but so that no person be punished twice for the same offence.

24. (a) The Undertaker shall cause to be provided at the place prescribed in any such contract or otherwise, and within the time prescribed therein, a testing place, with apparatus therein for the purposes following:—

Law 22, 1891.
Undertaker to provide testing apparatus.

- (1) For testing the illuminating power of the gas supplied.
- (2) For testing the presence of sulphuretted hydrogen in the gas supplied.

The said apparatus shall be as near as may be in accordance with the Regulations prescribed in Part I. of the Schedule to this Law annexed, and shall be so situated and arranged as to be used for the purpose of testing the illuminating power and purity of the gas supplied by the Undertaker, and the Undertaker shall at all times keep and maintain such testing-place and apparatus in good repair and working order.

(b) Any tests taken in pursuance of this Law shall be taken as near as may be in accordance with the Rules prescribed in Part II. of the Schedule to this Law annexed.

How tests to be taken.

25. If any Company or person neglect to pay any charge for electricity or gas, or any other sum due from them to the Undertaker in respect of the supply of electricity or gas to such Company or person, the Undertaker may cut off such supply, and for that purpose cut or disconnect any line, pipe, or other work, through which electricity or gas may be supplied, and may, until such charge or other sum, together with any expenses incurred by the Undertaker in cutting off such supply as aforesaid, are fully paid, but no longer, discontinue the supply of electricity or gas to such Company or person.

If charges unpaid supply may be cut off.

26. Any person who maliciously or fraudulently abstracts, causes to be wasted or diverted, consumes or uses any electricity or gas shall be guilty of theft, and punishable accordingly.

Theft of electricity or gas.

27. Where any electric lines, wires, pipes, gasometers, meters, accumulators, fittings, works, or apparatus belonging to the Undertaker are placed in or upon any premises, not being in possession of the Undertaker, for the purpose of supplying electricity or gas under this Law, such electric lines, wires, pipes, gasometers, meters, accumulators, fittings, works, or apparatus, shall not be subject to the landlord's remedy for rent of the premises where the same may be, nor to be taken in execution under any process of a Court of Law, or any proceedings in Insolvency against the person in whose possession the same may be.

Fittings, works, &c., privileged in respect of landlord's remedy for rent, execution, or proceedings in insolvency.

28. Every person who wilfully, fraudulently, or by culpable negligence, injures or suffers to be injured any lines, pipes, wires, meters, gasometers, fittings, works or apparatus, belonging to the Undertaker, or alters the index to any meter, or prevents any meter from duly registering the quantity of electricity or gas supplied, or fraudulently abstracts, consumes, or uses electricity or gas of the Undertaker, shall (without prejudice to any other right or remedy for the protection of the Undertaker, or the punishment of the offender), for every such offence, forfeit and pay to the Undertaker, a sum not exceeding Five Pounds Sterling, and the Undertaker may in addition thereto recover the amount of any damage by him sustained; and in any case in which any person has wilfully or fraudulently injured or suffered to be injured, any lines, wires, pipes, gasometers, meters, fittings, works or apparatus belonging to the Undertaker, or altered the index of any meter from duly registering the quantity of electricity or gas supplied, the Undertaker may also, until the matter complained of has been remedied, but no longer, discontinue the supply of

Forfeiture to Undertaker for injury to or tampering with lines, pipes, works, &c.

Supply may be temporarily cut off.

Law 22, 1891.
Evidence of
wrongful acts.

electricity or gas to the person so offending (notwithstanding any contract previously existing); and the existence of artificial means for causing such alteration or prevention, or for abstracting, consuming or using electricity or gas of the Undertaker, when such meter is under the control of the consumer, shall be "prima facie" evidence that such alteration, prevention, abstraction, or consumption as the case may be, has been fraudulently, knowingly, and wilfully caused by the consumer using such meter.

Recovery of rent
or hire by
Undertaker.

29. If any person supplied with electricity or gas, or with any electricity or gas meter or fittings by the Undertaker, neglects to pay to the Undertaker the rent due for such electricity or gas, or the rent or money due to the Undertaker for the hire or fixing of such meter, or any expense lawfully incurred by the Undertaker in cutting off the electricity or gas from the premises of such person, the Undertaker may recover in any competent court the amount so due from such person.

Incoming
tenant not liable
in general for
arrears unpaid
by outgoing
tenant.

30. In case any consumer of gas or electricity supplied by the Undertaker leaves the premises where such electricity or gas has been supplied to him, without paying the amount due by him, the Undertaker shall not be entitled to require from the next occupier of such premises the payment of the arrears left unpaid by the former tenant, unless such incoming tenant has undertaken with the former tenant to pay or exonerate him from the payment of such arrears.

Buildings not to
be interfered
with except by
consent or for
renewals and
repairs.

31. Nothing herein contained shall authorise or empower the Undertaker to lay down or place any pipe, line, or other works into, through, or against any building, without the consent of the owner or occupier thereof; except that the Undertaker may at any time enter upon and lay or place any new pipe or line in the place of an existing pipe or line which may have been already laid down or placed in pursuance of this Law, and may repair or alter any pipe or line so laid down.

Powers of
Council to purchase
undertaking, and to
exercise powers
of Undertaker.

32. In any contract to be entered into as aforesaid the Council shall have power to provide for the purchase of all land, buildings, works, materials, and plant belonging to any such Undertaker on such terms and conditions as may be agreed upon, and on the completion of such purchase the Council may itself exercise all the rights, powers, and privileges hereby authorised to be conferred upon any such Undertaker, and shall "mutatis mutandis," be subject to all the penalties hereinbefore imposed on such Undertaker.

Electric works
not to injuriously
affect Govern-
ment lines.

33. The Undertaker shall not, in the exercise of the powers conferred by this Law, lay down any electric line, or do any other work for the supply of electricity whereby any telegraphic or telephonic line of the Colonial Government is or may be injuriously affected, and before any such electric line is laid down or work is done within ten yards of any part of a telegraphic or telephonic line of the Colonial Government (other than repairs or the laying of connections with mains where the direction of the electric lines so laid down crosses the line of the Colonial Government at right angles at the point of shortest distance, and continues the same for a distance of six feet on each side of such point), the Undertaker, or his agent, not more than twenty-eight nor less than seven clear days before commencing such work, shall give written notice to the Colonial Government specifying the course and nature of the work, including the gauge of any electric line, and the Undertaker, or his agent, shall conform with such reasonable requirements, either general or special, as may from time to time be made by the Colonial Government for the purpose of preventing any telegraphs or telephones of the Colonial Government from being injuriously affected by the said work.

Notices to
Government in
certain cases.

Requirements
of Government
to be conformed
with.

Any difference which arises between the Colonial Government and the Undertaker, or his agent, with respect to any requirements so made, shall be determined by arbitration, or, failing arbitration, by the Supreme Court. Law 22, 1891.
Differences.

In the event of any contravention of or wilful non-compliance with this section by the Undertaker, or his agent, the Undertaker shall be liable to a fine not exceeding Ten Pounds Sterling for every day during which such contravention or non-compliance continues, or, if the telegraphic or telephonic communication is wilfully interrupted, not exceeding Fifty Pounds Sterling for every day on which such interruption continues. Penalties for
contravention
of this section.

Provided, that nothing in this section shall subject the Undertaker, or his agent, to a fine under this section, if he satisfies the court having cognizance of the case, that the immediate execution of the work was required to avoid an accident, or otherwise was a work of emergency, and that he forthwith served on the person in charge of the telegraph office nearest to the place where the work was done, a notice of the execution thereof, stating the reason for executing the same without previous notice. Saving in cases
of urgency.

For the purposes of this section a telegraphic or telephonic line of the Colonial Government shall be deemed to be injuriously affected by a work if telegraphic or telephonic communication by means of such a line is, whether through induction or otherwise, in any manner affected by such work, or by any use made of such work. What consti-
tutes injury to
Government
line.

34. The Council shall have power to make, do, execute and perform all the works or any of them hereby authorised, and shall be entitled to exercise all the rights and privileges hereinbefore conferred upon any Undertaker, and shall, "mutatis mutandis," in like manner be subject to all the penalties hereinbefore imposed on such Undertaker. Council may
exercise all
powers of Un-
dertaker, and
shall be subject
to all penalties.

SCHEDULE.

PART I.

Regulations in respect of Testing Apparatus.

1. The Apparatus for testing the Illuminating Power of the Gas shall consist of the improved form of Bunsen's photometer, known as Lethby's open 60-inch photometer, or Evans' enclosed 100-inch photometer, together with a proper meter, minute clock, governor, pressure gauge, and balance. Schedule.

The Burner to be used for testing the gas shall be such as shall be prescribed.

The Candles used for testing the gas shall be sperm candles of six to the pound, and two candles shall be used together.

2. The Apparatus:—

- (a) For testing the Presence in the Gas of Sulphuretted Hydrogen.—A glass vessel containing a strip of bibulous paper moistened with a solution of acetate of lead, containing sixty grains of crystallised acetate of lead dissolved in one fluid ounce of water.

PART II.

Rules as to Mode of Testing Gas.

1. Mode of Testing for Illuminating Power.—The gas in the photometer is to be lighted at least fifteen minutes before the testings begin, and it is to be kept continuously burning from the beginning to the end of the tests.

Law 22, 1891.

Schedule.

Each testing shall include ten observations of the photometer made at intervals of a minute.

The consumption of the gas is to be carefully adjusted to five cubic feet per hour.

The candles are to be lighted at least ten minutes before beginning each testing, so as to arrive at their normal rate of burning, which is shown when the wick is slightly bent and the tip glowing. The standard rate of consumption for the candles shall be 120 grains each per hour. Before and after making each set of ten observations of the photometer, the gas examiner shall weigh the candles, and if the combustion shall have been more or less per candle than 120 grains per hour he shall make and record the calculations requisite to neutralise the effects of this difference.

The average of each set of ten observations is to be taken as representing the illuminating power of that testing.

2. Mode of testing:—

(a) For Sulphuretted Hydrogen.—The gas shall be passed through the glass vessel containing the strip of bibulous paper moistened with the solution of acetate of lead for a period of three minutes, or such longer period as may be prescribed; and if any discolouration of the test paper is found to have taken place, this is to be held conclusive as to the presence of sulphuretted hydrogen in the gas.

Law No. 13 1893.

“To amend ‘The Municipal Corporations Law, 1872,’ so as to provide for voting by ballot in all elections of Councillors of Boroughs, and to extend certain of the provisions of the Ballot Law No. 29 of 1887 to such elections.”

[3rd July, 1893.]

WHEREAS it is desirable to amend “The Municipal Corporations Law, 1872,” so as to provide for voting by ballot in all elections of Councillors of Boroughs, and to extend certain of the provisions of the Ballot Law No. 29, 1887, to such elections:

BE IT THEREFORE ENACTED by the Governor of the Colony of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

Repeal.

1. Sections 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, and 38 of “The Municipal Corporations Law, No. 19, 1872,” shall be, and the same are, hereby repealed.

Borough elections of Councillors to be by ballot.

2. [In all elections of Councillors of any Borough the votes shall be given in every Ward by ballot (A).] The ballot of each voter shall consist of a paper (in this Law called a ballot paper), showing the names and description of the candidates. Each ballot paper shall have a number printed on the back, and shall have attached a counterfoil with the same number printed on the face. At the time of voting the ballot paper shall be marked on both sides with an official mark, and delivered to the voter within the polling station, and the number of such voter on the Burgess Roll shall be marked on the counterfoil, and the voter having secretly marked his vote on the paper, and folded it up so as to conceal his vote, shall place it in a closed box in the

(A) Words in brackets are repealed by Act 22, '894, s. 27, post, which substitutes others.

presence of the officer presiding at the polling-station (in this Law called the "Presiding Officer") after having shown him the official mark at the back Law 13, 1893.

3. Any ballot paper which has not on its back the official mark, or on which votes are given to more candidates than the voter is entitled to vote for, or on which anything, except the said number on the back, is written or marked by which the voter can be identified, shall be void and not counted. Every person whose name is on the Burgess Roll may vote for any candidates, being not more than the number to be elected for the Ward. Irregularities invalidating voting papers.

4. The poll in every Ward (A) shall commence at eight o'clock in the forenoon, and shall finally close at four o'clock in the afternoon of the same day. Hours of poll.

5. After the close of the poll the ballot boxes shall be sealed up, so as to prevent the introduction of additional ballot papers, and shall be taken charge of by the returning officer, and that officer shall, in the presence of such agents, if any, of the candidates as may be in attendance, open the ballot boxes, and ascertain the result of the poll by counting the votes given to each candidate, and shall forthwith declare to be elected for each Ward the candidates or candidate to whom the majority of votes have been given, and shall transmit the names of the persons so elected, together with the final state of the poll, to the Mayor: Provided always, that in the case of the first election in any borough created after the coming into force of this Law, the names of the persons so elected, and the final state of the poll, shall be transmitted to the Resident Magistrate. The decision of the returning officer as to any question arising in respect of any ballot paper shall be final, subject to reversal on petition questioning the election or return: Provided always, that if on the day of election such election shall not be contested, the person or persons nominated in manner provided for in "The Municipal Corporations Law, No. 19, 1872," if otherwise duly qualified, shall be deemed and taken to have been duly elected without a poll. Proceedings after close of poll.

6. When the Resident Magistrate or Mayor, as the case may be, has received the names of the persons so elected, he shall forthwith cause a list thereof, with the names of the Wards for which they are elected, to be published. Declaration of election.

7. Persons so elected shall hold office for two years: Provided, that at the termination of the first year after the first general election in any Borough created after the coming into force of this Law, one-half of the Council, that is, one Councillor in each Ward having the least number of votes, shall retire from office, and in case of equality of votes, or in case there be no contest, it shall be determined by lot which Councillor shall retire: Provided further, that whenever a reduction shall be required in the number of Councillors of any Borough, caused by a reduction in the number of its Wards as provided for in Clause 10 of "The Municipal Corporations Law No. 19 of 1872," the whole of the Councillors then in office shall retire at the election next following such reduction, after which, and with respect to the Councillors then to be elected, the provisions of this clause shall apply as if no reduction had taken place. Uncontested elections.

8. If any Councillor shall die, resign, or become incapable of discharging the duties of his office, another Councillor shall be elected in manner herein provided, who shall hold office for the unexpired period for which his predecessor was elected. List of persons elected.

(A) See Act 22, 1894, s. 27, post.

Law 13, 1893.

Offences in respect of ballot box or papers.

9. Every person who—

- (a) Forges or counterfeits, or fraudulently defaces or fraudulently destroys any ballot paper, or the official mark on any ballot paper; or
- (b) Without due authority supplies any ballot paper to any person; or
- (c) Fraudulently puts into any ballot box any paper other than the ballot paper which he is authorised by Law to put in; or
- (d) Fraudulently takes out of the polling station any ballot paper; or
- (e) Without due authority destroys, takes, opens, or otherwise interferes with any ballot box or packet of ballot papers then in use for the purposes of the election,

Punishments.

shall be guilty of a crime or offence, and be liable, if he is a returning officer or a presiding officer, or an officer or clerk in attendance at a polling station, to imprisonment for any term not exceeding two years, with or without hard labour; and if he is any other person, to imprisonment for any term not exceeding six months, with or without hard labour. Any attempt to commit any offence specified in this section shall be punishable in the manner in which the offence itself is punishable. In any indictment or other prosecution for an offence in relation to the ballot boxes, ballot papers and marking instruments at an election, the property in such papers, boxes and instruments may be stated to be in the returning officer at such election as well as the property in the counterfoils.

Secrecy of voting.

10. Every officer, clerk and agent in attendance at a polling station shall maintain, and aid in maintaining, the secrecy of the voting in such station, and shall not communicate, except for some purpose authorised by Law, before the poll is closed, to any person any information as to the name or number on the Burgess Roll of any elector who has or has not applied for a ballot paper or voted at that station, or as to the official mark, and no such officer, clerk or agent, and no person whosoever, shall interfere with, or attempt to interfere with, a voter when marking his vote, or otherwise attempt to obtain in the polling station information as to the candidate for whom any voter in such station is about to vote or has voted, or communicate at any time to any person any information obtained in a polling station as to the candidate for whom any voter in such station is about to vote or has voted, or as to the number on the back of the ballot paper given to any voter at such station. Every officer, clerk, and agent in attendance at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting, and shall not attempt to ascertain at such counting the number on the back of any ballot paper, or communicate any information obtained at such counting as to the candidate for whom any vote is given in any particular ballot paper. No person shall, directly or indirectly, induce any voter to display his ballot paper after he shall have marked the same so as to make known to any person the name of the candidate for or against whom he has so marked his vote. Every person who acts in contravention of the provisions of this section shall be liable, on summary conviction before any Resident Magistrate, to imprisonment for any term not exceeding six months, with or without hard labour.

Qualification to vote.

11. At any election for any Ward a person shall not be entitled to vote unless his name is on the Burgess Roll for the time being in force for such Ward, and every person whose name is on such Burgess Roll shall be entitled to demand and receive a ballot paper, and to vote.

12. Subject to the provisions of this Law, every returning officer shall provide such polling stations, ballot boxes, ballot papers, stamping instruments, copies of Burgess Rolls, and other things, at each and every appointed polling place, appoint and pay such officers, and do such other acts and things as may be necessary for effectually conducting an election in manner provided by this Law. All expenses properly incurred by any returning officer in carrying into effect the provisions of this Law shall be payable out of, and be a charge upon, the Borough Fund.

Law 18, 1893.
Duties of Returning Officer.

Expenses.

13. If any person misconducts himself in the polling station, or fails to obey the lawful orders of the presiding officer he may immediately, by order of the presiding officer, be removed from the polling station by any constable in or near that station, or any other person authorised in writing by the returning officer to remove him, and the person so removed shall not, unless with the permission of the presiding officer, again be allowed to enter the polling station during that day. Any person so removed as aforesaid, if charged with the commission in such station of any offence, may be kept in custody until he can be brought before a Resident Magistrate: Provided, that the powers conferred by this section shall not be exercised so as to prevent any elector who is otherwise entitled to vote at any polling station from having an opportunity of voting at such station.

Misconduct at polling station.

14. Any presiding officer appointed by the returning officer to attend at a polling station shall have the power of administering the following form of declaration to voters:—

Power of presiding officer to administer form of declaration.

Form of Declaration.

You do affirm (or declare, as the case may be), that you are the same person whose name appears as A. B. in the Burgess Roll now in force for the Ward _____, and that you have paid all municipal rates due by you prior to the first day of June last.

15. Every returning officer, presiding officer, and clerk who is guilty of any wilful act or omission in contravention of this Law shall, in addition to any other penalty or liability to which he may be subject, forfeit to any person aggrieved by such act or omission, a penal sum not exceeding One Hundred Pounds Sterling.

Forfeiture to person aggrieved by wilful act or omission of officer.

16. No person who has voted at an election shall, in any legal proceeding to question the election or return, be required to state for whom he has voted.

Secrecy of voting to be upheld in legal proceedings.

17. No election shall be declared invalid by reason of a non-compliance with the rules contained in the First Schedule to Law No. 29, 1887, which Schedule is hereinafter incorporated with this Law, or by reason of any mistake in the use of the forms in the Second Schedule to the said Law, also hereinafter incorporated, if it appears to the tribunal having cognizance of the question that the election was conducted in accordance with the principles laid down in the body of this Law, and that such non-compliance or mistake did not affect the result of the election.

Certain informalities not to avoid election.

18. Any person who, at an election held and coming within the provisions of this Law, applies for a ballot paper in the name of some other person, whether that name be that of a person living or dead, or of a fictitious person, or who, having voted once at any such election in any Ward, applies at the same election in such Ward for a ballot paper in his own name, shall be deemed to be guilty of the offence of personation, and any person convicted thereof, or of aiding, abetting, counselling or procuring the commission of the offence of personation by any person, shall be punished by imprisonment for a term not exceeding two years, with or without hard labour. It shall be the duty

Personation.

Law 13, 1893.

Duty of Returning Officer to prosecute for personation.

Expenses.

Personation by candidate or his agents.

Bribery, treating, undue influence, &c., by candidate or his agents.

Interpretation.

Incorporation with this Law of certain parts of Law 29, 1887.

Amendment of Law 29, 1897.

of the returning officer to institute a prosecution against any person whom he may believe to have been guilty of personation, or of aiding, abetting, counselling, or procuring the commission of the offence of personation by any person at the election for which he is returning officer; and the costs and expenses of the prosecutor and the witnesses in such case, together with compensation for their trouble and loss of time, shall be allowed by the Court.

19. If, on the trial of any petition to the Supreme Court questioning the election or return for any Ward, any candidate is found by the said Court, by himself or his agents, to have been guilty of personation, or by himself or his agents to have aided, abetted, counselled, or procured the commission at such election of the offence of personation by any person, such candidate shall be for ever incapable of being elected or sitting in the Town Council of the borough in which such Ward is situated.

20. Where the candidate on the trial of any petition to the Supreme Court claiming the seat of any person is proved to have been guilty, by himself or by any person on his behalf, of bribery, treating, or undue influence in respect to any person who voted at such election, or where any person retained or employed for reward by or on behalf of such candidate for all or any of the purposes of such election, as agent, clerk, messenger, or in any other employment, is proved at such trial to have voted at such election, there shall, on a scrutiny, be struck off from the number of votes appearing to have been given to such candidate one vote for every person who voted at such election, and is proved to have been so bribed, treated, or unduly influenced, or so retained or employed for reward as aforesaid.

21. In this Law the words "Returning Officer" shall mean the officer for the time being appointed as such by the Mayor of the borough in which any election takes place, or in the case of the first election in any borough created after the coming into force of this Law, by the Resident Magistrate. The words "Presiding Officer" shall mean the officer appointed by the returning officer for the purpose of taking the poll. The word "Agents" shall mean and include Scrutineer.

22. The First and Second Schedules to Law No. 29, 1887 (A), shall, "mutatis mutandis," be taken and considered to be incorporated with this Law so far as the same may be applicable to Municipal elections; Provided always, that in place of the words "Colonial Secretary" wherever occurring in the First Schedule, the words "Town Clerk" shall be taken as inserted for the purposes of this Law; and in place of the word "Speaker" the word "Mayor" shall be taken as inserted; and in place of the word "Electors" the word "Burgesses"; and in place of the words "Register of Voters" or "Voters' List," the words "Burgess Roll"; and in place of the words "Electoral District" the word "Ward."

23. The following Declaration shall be substituted for the Form of Statutory Declaration of Secrecy embodied in the Second Schedule of Law No. 29, 1887:—

Form of Statutory Declaration of Secrecy.

I solemnly promise and declare that I will not at this Election for do anything forbidden by Section Ten, now read to me, of the Law to amend the Municipal Corporations Law, 1872, so as to provide for voting by ballot in all elections of Councillors of

(A) See tit. "PARLIAMENT."

boroughs and to extend certain of the Provisions of the Ballot Law, Law 13, 1893. No. 29 of 1887, to such elections.

NOTE.—The section must be read to the Declarant by the person taking the Declaration.

24. From and after the commencement of this Law a petition complaining of want of qualification, or of undue election or undue return of any Town Councillor for any Ward, may be presented to the Supreme Court by any one or more of the following persons:—

- (a) Some person who voted, or who had a right to vote, at the election to which the petition relates.
- (b) Some person claiming to have had a right to be returned or elected at such election.
- (c) Some person alleging himself to have been a candidate at such election.

Provided, that any such petition shall be signed by the petitioner or petitioners if more than one, and that the same shall be presented within fourteen days after the result of the election has been notified by the returning officer. Such petition shall contain full particulars of the grounds of the objection to the election or return complained of, and at the trial of such petition the petitioner shall be confined to the grounds of objection therein contained.

25. Notice of the date of the trial of an election petition shall be given by the petitioner or his agent to the person whose election or return is objected to, and the Registrar of the Supreme Court, not less than fourteen days before the date fixed for the same, and within ten days after the petition shall have been presented: Provided, that by leave of the Supreme Court the time may be extended.

26. The Supreme Court shall determine whether the councillor whose return or election is complained of or any and what other person was duly returned or elected, or whether the election was void, and such determination shall be final and conclusive.

27. This Law and the Municipal Corporations Law, 1872, shall be read and construed together as one Law.

Act No. 22, 1894.

“To amend ‘The Municipal Corporations Law, 1872,’ and to give Extended Powers to Municipal Corporations.”

[16th July, 1894.]

WHEREAS it is desirable to amend in certain respects “The Municipal Corporations Law, 1872,” and to give extended powers to Municipal Corporations:

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:—

1. Law No. 9 of 1881, and Sections 54 and 60 of Law No. 19 of 1872, shall be and the same are hereby repealed.

Regulation of Streets and Buildings.

2. Section 52 of the Municipal Corporations Law, 1872, shall be and the same is hereby amended by the further addition of the following words:—Provided that all the provisions of this clause shall also extend and be made applicable to any by-streets within the limits of any borough not now marked on the General Plan of the said borough, which the Town Council of the said borough may from time to

- Act 22, 1894. time resolve to take over, repair, and maintain, for the general benefit of the burgesses of the said borough, and which by-streets shall thereupon be named by the Town Council, and marked on the General Plan of the borough.
- Taking over of private by-streets. 3. From and after the passing of this Act it shall and may be lawful for the Town Council of any borough by resolution passed by the said Council, to take over, repair, and maintain any by-streets being private property referred to in such resolution: Provided that the greater part in value of the owners of properties abutting on or adjacent to such by-streets shall have first applied in writing to the said Town Council so to take over the same.
- Compensation. 4. Where by this Act any Town Council shall take over any by-streets, otherwise than with the consent of the owner or owners thereof, compensation shall be made to the owner or owners for any interest he or they may have in the land so taken, and for damage arising from the exercise of the power vested in the Town Council by this Act. The amount of compensation in case of dispute when the sum claimed is One Hundred Pounds or under shall be decided by the Resident Magistrate of the said borough, and when over One Hundred Pounds by the Supreme Court, or by a Jury or by arbitration in the usual manner, in the option of the person claiming the compensation.
- Limitation of action for compensation. 5. No claim for compensation by any such owner or owners shall be sustained after the expiry of six months' notice given to any owner or owners of such by-street or by-streets of the intention of the Town Council so to take over, who, during such period, has or have failed to make any claim for compensation: Provided always, that the said Town Council may at any time during or after such notice rescind their resolution to take over any such by-street or by-streets.
- How notice may be given. 6. For the purpose of this Act, notice shall be deemed to have been given where the same has been duly posted to the address of the owner or owners, or their legal representatives; and, where such address or addresses are unknown, by an advertisement in a local newspaper once a month for three consecutive months.
- Exemption from transfer duty. 7. No transfer duty or fines shall be due, payable, or chargeable on the taking over and transfer of any such by-street.
- Transfer of by-streets. 8. When a resolution shall have been passed by any Town Council, in terms of this Act, to take over, repair, and maintain any by-street or by-streets, the Surveyor-General is hereby authorised, on demand made by the said Town Council, to transfer, subject to the provisions in this Act contained, the land over which any such by-street or by-streets may run, or within which any such by-street or by-streets may be situated.
- Recording transfer. 9. It shall not be necessary for the purposes of any such transfers to mark off on the Title Deed or Diagram of any erf other than on the Deed of Grant and Diagram in the said Surveyor-General's office any piece of land transferred by the Surveyor-General to the Corporation in terms and under the provisions of this Act.
- Repair of private by-streets. 10. Where any street within any borough (not being a public street repairable by the inhabitants at large) or the carriageway, footway, or any other part of such street is not levelled, metalled, drained, and made good to the satisfaction of the Town Council, and such Town Council may, by notice to the respective owners, or if the owners be absent, then to the occupiers, of the premises fronting, adjoining, or abutting on such parts thereof as may require to be levelled, metalled, drained, or made good, require them to level, metal, drain, or make good the same within a time to be specified in such notice. Before giving such notice, however, the Town Council shall cause plans and sections of any structural works intended to be executed under this clause and an estimate of the probable cost thereof to be made under

the direction of their Surveyor or other proper officer; such plans and estimates shall be deposited in the office of the Town Council, and shall be open at all reasonable hours for the inspection of all persons interested therein during the time specified in such notice. If such notice is not complied with the Town Council may, if they think fit, execute the works mentioned or referred to therein, and may recover the expenses incurred by them in so doing from the owners in default, according to the frontage of their respective premises, and in such proportions as is settled by the Surveyor of the Town Council, or in case of dispute, by arbitration (A). The same proceedings may be taken and the same powers may be exercised in respect of any street or road of which a part is or may be a public footpath, or repairable by the inhabitants at large, as fully as if the whole of such street or road was not repairable by the inhabitants at large: Provided always, however, that any church, chapel, or place appropriated to public religious worship, or any churchyard, or burial ground, which is by law exempt from rates, shall not be liable to contribute to any expenses in this section mentioned, and the Town Council may, if they think fit, undertake any works from the expenses of which the said places are hereby exempted: And provided further that if any such street is now or shall hereafter be levelled, metalled, drained, and made good to the satisfaction of the Town Council, then on the application in writing of the greater part in value of the owners of the houses and land in such street, the Town Council shall, within three months from the time of such application by notice put up in such street, declare the same to be a public street repairable by the inhabitants at large, and thereupon such street shall become a public street repairable by the inhabitants at large.

Act 22, 1894.

Street may be declared a public street.

11. When any house or building or other structure situated in any street in any borough, or the front thereof, has been taken down, in order to be rebuilt or altered, the Town Council may prescribe the line in which any house or building or other structure or the front thereof to be built or rebuilt in the same situation shall be erected, and such house or building or other structure or the front thereof shall be erected in accordance therewith, and in case any house or building or other structure be erected or be begun to be erected or raised contrary thereto it shall be lawful for the Town Council to cause proceedings to be instituted in the Court of the Magistrate for the Division in which the property is situated, under summons requiring the owner of the premises, or the builder or persons engaged in any work contrary to this section, to appear at a time and place to be stated in the summons to answer the complaint; and if at the time and place appointed in such summons the said complaint shall be proved to the satisfaction of the said Magistrate, he shall make an order in writing on such owner, builder, or person, directing the demolition of any such building or erection, or so much thereof as may be beyond the line so fixed as aforesaid, within such time as such Magistrate shall consider reasonable, and shall also make an order for the payment of the costs incurred up to the time of hearing, and in default of the building or erection complained of being demolished within the time limited by the said order, the said Town Council may forthwith enter the premises to which the order relates and demolish the building or erection complained of, and do whatever may be necessary to execute the said order, and may also remove the materials of which the building or erection was composed to a convenient place and (unless the expenses of the Town Council be paid to them

Front-line of buildings.

(A) See *Pietermaritzburg Corporation v. McCormick and Dickenson*, 18 N.L.R. 52, 233.

Act 22, 1894. within fourteen days after such removal) sell the same by public auction; and all expenses incurred by the Town Council in executing such order and in disposing of the said materials may be deducted by the Town Council out of the proceeds of such sale, and the balance, if any, shall be paid by the Town Council on demand to the person entitled thereto; and in case such materials are not sold by the Town Council or in case the proceeds of the sale of the same are insufficient to defray the expenses incurred by the Town Council as aforesaid, the Town Council may recover such expenses or such insufficiency from such owner or other person, as aforesaid, together with all costs and expenses in respect thereof by action at law in the ordinary manner: Provided that the Town Council shall pay or tender compensation to the owner or other person immediately interested in such building for any loss or damage he may sustain in consequence of his building being set back or forward, the amount of such compensation in case of dispute to be settled by arbitration.

Compensation for alteration of front-line.

Verandahs.

12. The Town Council may consent, in writing, to the erection by any person of a verandah 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, 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, and to a further penalty not exceeding Twenty Shillings for every week upon which any such condition continues to be unfulfilled after the day on which the first penalty is incurred.

Removal of projections.

13. The Town Council may give notice to the occupier of any house or building to remove therefrom or alter any porch, shed, projecting window, step, cellar, cellar door or window, sign, signpost, signiron, showboard, window shutter, wall, gate or fence, or any other obstruction or projection erected or placed, after the passing of this Act, and which is an obstruction to the safe and convenient passage along any street; and such occupier shall, within fourteen days after the service of such notice upon him remove such obstruction, or alter the same in such manner as shall have been directed by the Town Council, and in default thereof shall be liable to a penalty not exceeding Forty Shillings, and the Town Council in such case may remove such obstruction or projection, and the expense of such removal shall be paid by the occupier so making default: Provided always, that except in the case in which such obstructions or projections were made or put up by the occupier, such occupier shall be entitled to deduct the expense of removing the same from the rent payable by him to the owner of the house or building, or to recover payment from the owner by process of Law. If any such obstructions or projections were erected or placed against, or in front of any house or building in any such street before the passing of this Act, the Town Council may cause the same to be removed or altered as they think fit; provided that they give notice of such intended removal or alteration to the occupier of the house or building against or in front of which such obstruction or projection shall be, thirty days before such alteration or removal is begun, and, if such obstructions or projections shall have been lawfully made, they shall make reasonable compensation to every person who suffers damage by such removal or alteration, the amount of such compensation, in case of dispute, shall be settled by arbitration.

Ruinous buildings.

14. If any building or wall, or any thing affixed thereon, within the limits of a borough, be deemed by the Borough Engineer, Town Surveyor, or other officer appointed by the Town Council, to be in a ruinous state, and dangerous to passengers or to the occupiers of the

neighbouring buildings, such Borough Engineer or other officer shall immediately cause a proper hoard or fence to be put up for the protection of passengers, and shall also cause notice in writing to be given to the owner of such building or wall, if he be known and resident within the said limits, and shall also cause such notice to be put on the door or other conspicuous part of the said premises, or otherwise to be given to the occupier thereof, if any, requiring such owner or occupier forthwith to take down, secure, or repair such building, wall, or other thing as the case shall require, and if such owner or occupier do not begin to repair, take down, or secure such building, wall, or other thing within the space of three days after any such notice has been so given or put up as aforesaid, and complete such repairs, or taking down or securing, as speedily as the nature of the case will admit, and in default of the occupier (if any) of such building, wall, or other thing, to take down, rebuild, repair, or otherwise secure to the satisfaction of such Borough Engineer or other officer as aforesaid, the same, or such part thereof as appears to them to be in a dangerous state, or if no owner or occupier can be found on whom to serve such order, the Town Council shall with all convenient speed cause all or so much of such building, wall, or other thing as shall be in a ruinous condition, and dangerous as aforesaid, to be taken down, repaired, rebuilt, or otherwise secured in such manner as shall be requisite; and all the expenses of putting up every such fence, and of taking down, repairing, rebuilding, or securing such building, wall, or other thing, shall be paid by the owner thereof, if such owner can be found within the limits of the borough, and if, on demand of the expenses aforesaid he neglects or refuses to pay the same, then such expenses may be levied by distress. If such owner cannot be found within the limits of the borough, or sufficient distress of his goods and chattels within the said limits cannot be made, the Town Council, after giving twenty-eight days' notice of their intention to do so, by posting a printed or written notice in a conspicuous place on such building, or on the land whereon such building stood, may take such building or land or both, provided that such expenses be not paid or tendered to them within the said twenty-eight days, making compensation to the owner of such building or land in the manner provided by the Lands Clauses Consolidation Law, 1872, in the case of land taken otherwise than with the consent of the owners and occupiers thereof, and the Town Council shall be entitled to deduct out of such compensation the amount of the expenses aforesaid, and may thereupon sell or otherwise dispose of the said building or land for the purposes of this Act.

Act 22, 1894.

15. If any such building as aforesaid, or any part of the same be pulled down by virtue of the powers aforesaid, the Town Council may sell by public auction the materials thereof, or so much of the same as shall be pulled down, and apply the proceeds of such sale in payment of the expenses incurred in respect of such building; and the Town Council shall restore any overplus arising from such sale to the owner of such building; nevertheless, the Town Council, although they sell such materials for the purposes aforesaid, shall have the same remedies for compelling the payment of so much of the said expenses as may remain due after the application of the proceeds of such sale as are hereinbefore given to them for compelling the payment of the whole of the said expenses.

Disposal of materials.

Recovery of expenses by Town Council.

16. Every person intending to build or take down any building within the limits of the borough, or to cause the same to be so done, or to alter or repair the outward part of any such building, or to cause the same to be so done, where any street or footway will be obstructed or rendered inconvenient by means of such work, shall, before

Protection of street or footway during building or repairing.

Act 22, 1894. beginning the same, cause sufficient hoards or fences to be put up, in order to separate from the street, the building where such works are being carried on with a convenient platform and handrail, if there be room enough, to serve as a footway for passengers, outside of such hoard or fence, and shall continue such hoard or fence, with such platform and handrail as aforesaid, standing in good condition, to the satisfaction, of the Borough Engineer or other proper officer during such time as the public safety or convenience requires, and shall in all cases in which it is necessary, in order to prevent accidents, cause the same to be sufficiently lighted during the night; and every such person who fails to put up such fence or hoard, or platform, with such handrails as aforesaid, or to continue the same respectively standing and in good condition as aforesaid during the time aforesaid, or who does not, while the said hoard or fence is standing, keep the same sufficiently lighted in the night, or who does not remove the same, together with all building material and "debris," when directed by the Borough Engineer or other proper officer, within seven days, shall, for every such offence, be liable to a penalty not exceeding £5, and a further penalty not exceeding 20s. for every day while such default is continued.

Lighting.

Removal of debris.

Protection of street from dangerous buildings, &c.

17. If any building, or hole, or any other place near any street be, for want of sufficient repair, protection, or enclosure, dangerous to the passengers along such street, the Borough Engineer or other proper officer may cause the same to be repaired, protected, or enclosed, so as to prevent danger therefrom; and the expenses of such repair, protection, or enclosure shall be repaid to the Town Council by the owner of the premises so repaired, protected, or enclosed, and shall be recoverable from him as damages.

Bye-laws, new streets, structures, sanitation.

18. Every Town Council may make bye-laws, in terms of Law No. 19, of 1872, with respect to the following matters, that is to say:—

- (a) With respect to the level, width, and construction of new streets, and the provisions for the sewerage thereof.
- (b) With respect to the structure of walls, foundations, roofs, and chimneys of new buildings, for security, stability, and the prevention of fires, and for purposes of health.
- (c) With respect to the sufficiency of the space about buildings to secure a free circulation of air, and with respect to the ventilation of buildings.
- (d) With respect to the drainage of buildings, yards, or premises, and with respect to water closets, earth closets, privies, ashpits, and cesspools, in connection with buildings, and with respect to the closing of buildings, or parts of buildings, unfit for human habitation, and with respect to prohibition of their further use, and generally to make such additional bye-laws as may from time to time be found necessary in the interests of the public health of the borough: Provided that in any borough where the removal of night-soil from the premises of persons living within the borough is effected by the Town Council the Council may charge therefor a yearly sum to be fixed by the Town Council for each night-soil box or pail used upon such premises, and in any such case the cost of the removal of the night-soil shall be kept in a separate account, and the Borough Rate shall not be burdened with so much of such cost as is covered by the amounts so paid. (A)

Deposit of plans of streets and buildings.

And they may further provide for the observance of such bye-laws by enacting therein such provisions as they think necessary as to the

giving of notices, as to the deposit of plans and sections by persons intending to lay out streets or to construct buildings, as to inspection by the Town Council, and as to the power of such Town Council to remove, alter, or pull down, any work begun, or done in contravention of such bye-laws. Act 22, 1894.

19. Where a notice, plan, or description of any work is required by any bye-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, and is in any respect not in conformity with any bye-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 bye-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. Where the Town Council may, under this section, pull down or remove any work begun or executed in contravention of any bye-law, or where the beginning or the execution of the work is an offence, in respect whereof the offender is liable in respect of any bye-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 bye-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 bye-law was broken. Approval of plans by Town Council.
Removal of disapproved works.

20. The power to make drains conferred on the Town Council by Section 52 of Law No. 19 of 1872 shall extend to lands occupied by dwelling-houses or shops, or as approaches to such, subject to the provisions for compensation in the said Section 52 provided (A). Drains.

21. For the purposes of this Act the re-erecting of any burnt building, or of any building pulled down to or below the ground floor, or of any frame building of which only the framework is left down to the ground floor, the conversion into a dwelling-house of any building not originally constructed for human habitation, or the conversion into more than one dwelling-house of a building originally constructed as one dwelling-house only, shall be considered the erection of a new building. Re-erection and alteration, when to be deemed new buildings.

22. The Town Council may from time to time cause the houses and buildings in all or any of the streets to be marked with numbers as they think fit, and may cause to be put up, or painted, on a conspicuous part of some house, building, or place, at or near each corner or entrance of every such street, the name by which such street is to be known; and every person who destroys, pulls down, or defaces any such numbers or name, or puts up any number or name different from the number or name put up by the Town Council, shall be liable to a penalty not exceeding 40s. for every such offence. The occupiers of houses and other buildings in the streets shall mark their houses with such numbers as the Town Council approve of, and shall renew such numbers as often as they become obliterated or defaced; and Numbers of houses and names of streets.

(A) See *Pietermaritzburg Corporation v. Dickenson and McCormick*, 18 N.L.R. 52, 233, with regard to the right of a Corporation to make drains and the settlement of compensation.

Act 22, 1894. every such occupier who fails, within one week after notice for that purpose from the Town Council to mark his house with a number approved by the Town Council, or to renew such number when obliterated, shall be liable to a penalty not exceeding 40s.; and the Town Council shall cause such numbers to be marked or to be renewed, as the case may require, and the expense thereof shall be repaid to them by such occupier.

Service of notices.

Recovery of costs.

Legal proceedings.

23. Notices to be given under any of the preceding sections may, at the option of the Town Council, be served on owners or occupiers, or on owners as well as occupiers, and the cost of the works done may, when notices have been so served, be recovered from owners or occupiers, as the case may be, and when such cost is recovered from occupiers it may be deducted by the occupiers from the rent of the premises, or may be recovered from the owner by process of law.

24. Unless where special provision is made to the contrary, all moneys recoverable by the Town Council from owners or occupiers in carrying out the provisions of any of the preceding sections may be recovered as and by way of damages, in any competent Court; and prosecutions for contraventions of the provisions of the said sections, or of any bye-law thereunder, or for enforcing any penalty thereunder, shall be instituted in the Court of the Magistrate of the Division in which the commission of any such offence shall have taken place, or who shall have jurisdiction to try and determine any such offence.

Miscellaneous.

Burgess Roll, dates of preparation and hearing objections.

25. The date, the eighth day day of June, in Section 15, and the date, the eighth day of July, in Section 17 of "The Municipal Corporations Law, 1872," relating to the preparation of the Burgess Roll, and the objections thereto, shall be altered to read the twenty-eighth day of June and the twenty-eighth day of July, respectively. In like manner the date, the 15th day of July, in Section 21, shall be altered to the first day of August as the date the Burgess Roll shall be brought into use for the election next ensuing.

Acceptance of requisition by telegraph.

26. The acceptance of a requisition to a candidate for election as Councillor for any Ward referred to in Section 23 of "The Municipal Corporations Law, 1872," may be by telegraph or cable message.

Elections: polling places.

27. The words, "In the Election of Councillors of any borough, the votes shall be given in every Ward by ballot," occurring at the commencement of Section 2 of Law 13 of 1893, are hereby repealed, and the following substituted therefor:—"In all Elections of Councillors of any borough the votes shall be given by ballot at such Polling Place or Polling Places throughout the borough as may be fixed for the convenience of voters, irrespective of whether the said Polling Place or Polling Places may be situated in the particular Ward to which the election may relate"; the words "The Poll in every Ward," wherever occurring throughout the Law 13, 1893, and the provisions relating thereto, shall be read as applying to the Poll wherever taken for the Election of a Councillor of any borough.

Amendment of Law 13, 1893.

Deposit of £10 by candidate for election;

28. The requisition mentioned in Section 23 of "The Municipal Corporations Law, 1872," shall not be published by the Mayor in terms of the 25th Section until there shall have been paid to the Town Clerk by or on behalf of the candidate mentioned in such requisition, the sum of £10 sterling, to be dealt with as hereinafter is provided, and no candidate by or for whom, or on whose behalf such payment shall not have been made, shall be or be deemed to be a candidate at such election. When an election shall take place under the provisions of Law No. 13, 1893, the moneys so paid as aforesaid to the Town Clerk by such candidate as shall not afterwards have

received at the said election a number of votes equal at least to one-fifth part of the votes received by the successful candidate, if only one, or by such one of the successful candidates, if there shall be more than one, as shall have received the smallest number of votes, shall be forfeited and paid over to the Borough Fund; and after every election the said Town Clerk shall pay to each of the candidates who shall have been returned without a poll, or who shall have received a number of votes equal at least to such fifth part, whether declared elected or not, the money so paid by or for him or them respectively.

Act 22, 1894.
when forfeited.

29. Section 44 of the said "Municipal Corporations Law, 1872," is hereby repealed, and the following clause substituted therefor:—

Election of
Mayor and
Deputy Mayor.

"On the Saturday following the day of any first general election, or any annual election of retiring Councillors thereafter, the Councillors shall openly elect from among themselves, by a majority of votes, the Mayor of the borough, who shall hold office until the election of his successor, and on any election of Mayor the Chairman of the meeting shall have a casting vote only: Provided that in the event of the Chairman not being a member of the Town Council, but presiding only by virtue of his holding office of Mayor until the election of his successor, then the quorum required to be present at the election of Mayor shall be deemed to be exclusive, and not inclusive, of such Chairman. After the Mayor has been duly elected as above, the Councillors shall also at the same meeting and in the same manner, proceed to elect from among themselves a Deputy Mayor, who shall perform all the duties pertaining to the office of Mayor in the event of the Mayor's illness or temporary absence from the borough, and, in case of disability of the Mayor and Deputy Mayor through absence or illness, it shall be lawful for the Council to appoint one of their number to perform the duties of Mayor for the period of such disability; and until such appointment the Town Clerk may convene the Council and put any question to them.

30. Section 49 of the said Law is hereby amended by the addition of the following words at the end thereof:—"Provided that such notice shall commence from the date of its communication to the Council at an ordinary meeting or special meeting thereof, and such notice upon the expiry of the time specified shall, 'ipso facto,' become the actual resignation."

Resignation of
Mayor or
Councillor.

31. The words in Section 50 of the said Law relating to leave of absence to any Mayor or Councillor are hereby amended in manner following, that is to say:—"No Councillor shall be deemed to have forfeited his seat in the Council by reason only of his not having attended the meetings of the Council for a period of two consecutive calendar months, but if the period of absence from such meetings exceed two calendar months such Councillor shall thereupon cease to be a member of the Council or to hold the office of Mayor, unless he shall have obtained special leave from the Council for a longer period than two months, and the Council may grant leave of absence for any period not exceeding three months in any Municipal year to any Mayor or Councillor: Provided, however, that no Councillor shall be absent from meetings of the Council for more than three months in any Municipal year.

Forfeiture of
seat by Coun-
cillor.

Leave of
absence.

32. Section 39 of the said Law shall be amended so as to provide that instead of the Auditors of the borough remaining in office for one year they shall hereafter be elected for two years, except as regards the first election after this Act shall come into operation, in which case the Auditor who shall have received the smaller number of votes at the last election shall be deemed to have been elected for one year only, at the expiration of which he shall retire, and thereafter the Auditors or their respective successors will retire every alternate year:

Retirement of
auditors.

Act 22, 1894. Provided that if any Auditor shall die or resign his office the person elected in his place shall hold office until the expiration of his predecessor's term of office.

Abatement of nuisances.

33. Each Town Council shall be and is hereby authorised and empowered (A) to abate all nuisances, and to prevent any act, matter, or thing likely to be injurious to public health, and in particular:—

- The firing of grass on lands belonging to the borough;
- The obstruction of any highway;
- The carrying on of trades, callings, or manufactures producing noisome or offensive smells, or which are otherwise offensive;
- The keeping of any house or premises in such a state of overcrowding, either with human beings or animals, as to be a nuisance or injurious to health;
- The keeping of any factory, workshop, store, shop, or work place, in an insanitary condition, or not ventilated in such a manner as to render harmless, as far as practicable, any gases, vapours, dust or other impurities generated in the course of the work carried on therein;
- The use of any bakehouse, store, or other place, where articles of food or foodstuffs are prepared, manufactured, or stored for the purpose of sale, as a sleeping apartment;
- The use of any room where articles of merchandise are stored for the purpose of sale, as a sleeping apartment;
- The keeping of such premises as aforesaid in an insanitary condition, or the allowing of any person to be employed in or about such premises whose clothes are not in a sanitary condition;
- The keeping of any fowl, goat, sheep, or pig, in any sleeping or living apartment;
- The keeping of any dead body, or corpse, in any room, building, or other place, so as to be dangerous to health;
- The burial of any corpse, dead body, or carcase in any unauthorised place within the borough;
- The mischievous use, or the careless or dangerous warehousing or conveyance in the town or any part of the town lands, of gunpowder, paraffin, or similar oil, or other combustibles;
- The firing or discharging of guns or pistols, air-guns, or catapults;
- The making of unseemly noises in the town by day or night;
- The cracking of wagon whips, or the using of large wagon whips in the streets;
- The keeping of ferocious or troublesome dogs or other animals;
- The carriage or exposure in the streets or highways of persons afflicted with contagious or infectious diseases;
- The keeping or maintaining of cattle kraals, swine yards, or poultry yards;
- The keeping of disorderly houses of all descriptions, including common bawdy-houses and gaming-houses;
- The exposure or exhibition in public of any objects dangerous to health or personal safety or subversive of decency or public morals;
- The public use of language calculated to cause a breach of the peace;
- The public use of indecent words, gestures, or practices;
- The non-repair or dangerous condition of any building, bridge, parapet, or water course;

(A) As to by-laws framed under this sec. being ultra vires, compare *Superintendent of Police, Maritzburg v. Tyrrell*, 4 N.L.R. 24.

The keeping in a foul or improper manner any pool, ditch, gutter, watercourse, privy, urinal, cesspool, drain, yard, or pit; Act 22, 1894.
 The depositing in any street, or highway, or other unauthorised place, any refuse or rubbish;
 The depositing on any private premises any refuse or rubbish, producing a noisome or offensive smell;
 Any act tending to the pollution of water within the borough intended for public use.

34. The Superintendent of Police or Inspector of Nuisances of any borough, or any other person appointed by the Town Council of any borough, may at his own instance, and without obtaining permission or certificate from the Attorney-General, prosecute in the Resident Magistrate's Court for contraventions, committed within the borough, of borough bye-laws and of Law No. 19 of 1872, and of Law No. 15 of 1869 (A), and of any Law or Ordinance mentioned in Clause 71 of Law No. 19 of 1872, and of this Act. Prosecution for contravention of Bye-laws.

35. Section 54 of Law No. 19 of 1872 is hereby repealed, and the following substituted therefor:—"The Council shall take order for the extinguishing of fires, and for that purpose may provide and keep a fire engine, or engines, or other fire extinguishing apparatus." Fires and fire engines.

36. The Town Council of any borough may grant, or for reasons to it appearing sufficient, refuse licenses to eating houses within the borough, and may frame Rules for the regulation of such eating houses. Eating-houses.

37. Any person applying for a retail shop license shall state the nature or description of 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 purposes, whether as regards the situation or character of the building structurally or otherwise, and the Town Council may refuse to issue such licenses until satisfied of the suitability of the premises as aforesaid. Applications for retail licenses.

38. Each Town 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. Such licensing authority may, under the hand of the 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 of Ten Pounds from the person using, and also from the person hiring, any unlicensed building for the purpose of public entertainment, for each and every time such building is so used, and may make bye-laws for the purpose of minimising the risk of fire in any building used for any public purpose. Licensing buildings for public entertainments.

39. In so far as it is applicable to boroughs the provisions of Section 1 of the Vagrant Law, No. 15 of 1869, shall be deemed to extend to and include any person leading a vagrant life and found wandering about without any visible means of subsistence (B). Vagrancy.

40. From and after the passing of this Act the provisions of Section 8 of Law 23, 1878 (c), shall apply to boroughs in this Colony, Drunkenness: appropriation of fines.

(A) See tit. "CRIMINAL LAW" p. 51. erect buildings for the reception, for the night, of non-resident natives.
 (B) See also s. 3 of Law 15, 1869, which enacts that Corporations shall (c) Repealed by Act 38, 1896, tit. "INTOXICATING LIQUORS."

Act 22, 1894. and any penalty imposed for any contravention of such section committed within any borough shall be paid into and form part of the Borough Fund of the borough in which such offence was committed.

Superannuation.

41. Town Councils may establish superannuation funds, and may give grants or pensions therefrom to officers in pursuance of regulations passed in that behalf.

Parks and pleasure grounds.

42. Any Town Council may purchase, lay out, plant, improve, and maintain lands for the purpose of being used as public parks, walks, or pleasure grounds, and may make bye-laws for the regulation of any such public park, walk, or pleasure ground, and may by such bye-laws provide for the removal from such public park, walk, or pleasure ground, of any person infringing any such bye-law, by any officer of the Town Council or constable. And the Town Council may do any or all these things whether such public park, walk, or pleasure ground be under the direct control of the Town Council or vested by them in Trustees: Provided that power is reserved to such Town Council to close such public park, walk, or pleasure ground for any period not exceeding, in the whole, six days in any one year, and such Town Council shall have the power, subject to the consent of three-fourths of the members thereof, of letting such public park, walk, or pleasure ground on such reserved days at such rent as to the said Town Council may seem fit (A).

Power to close parks, &c.

Cemeteries.

43. Town Councils may appropriate or acquire lands for cemeteries or burial grounds within or without their respective boroughs and may close the same when deemed necessary and may pass bye-laws for the use and regulation thereof.

Cowsheds and dairies.

44. Town Councils are empowered to make such bye-laws or regulations with respect to cowsheds and dairies from which milk is vended or sold within their respective boroughs as are necessary or proper for the construction and cleansing of the cow sheds, for the health and condition of the cattle therein, for the cleanliness of milk vessels used therein for containing milk for sale, for the protection of the milk against infection or contamination, and for registration, licensing, and inspection of cowsheds and dairies.

Infectious diseases.

45. Every medical practitioner in any borough attending on or called in to visit a patient shall forthwith, on becoming aware that the patient is suffering from an infectious disease as hereinafter defined, send to the Medical Officer of Health for the borough a certificate, in form prescribed by the Town Council and supplied free of cost by the latter, stating the name of the patient, the situation of the building, and the infectious disease, from which, in the opinion of such medical practitioner, the patient is suffering. The Medical Officer of Health of any borough shall also be obliged to furnish to the Town Clerk like certificates in respect of patients attended by him. Every medical practitioner, required by this section to give a certificate, who fails to give the same shall be liable on conviction of the offence by the Magistrate of the Division in which any such borough is situated to a fine not exceeding Forty Shillings, and jurisdiction is hereby granted to any such Magistrate to try and determine prosecutions for any such offences. The expression "infectious disease" to which this section applies, includes the following diseases, namely:—Small-pox, cholera, diphtheria, membranous croup, erysipelas, the disease known as scarlatina, or scarlet fever, and leprosy, and the fevers known by any of the following names: typhus, typhoid, enteric, relapsing, continued, or puerperal; and any Town Council may, from time to time, by a resolution passed at a meeting thereof, order that the provisions of

Meaning of "infectious disease."

(A) See Act 29, 1898, post, amending this sec.

this section shall apply in their borough to any infectious disease other than the diseases specifically mentioned in this section; any such order may be permanent or temporary, and if temporary the period during which it is to continue in force shall be specified therein, and any such order may be revoked, or varied, by the Town Council which made the same: Provided that any such order, and the revocation and variation of the same, shall not be of any validity until approved by the Governor of the Colony; and provided also that when it is so approved the Town Council shall give public notice thereof, by advertisement, in a local newspaper, and by handbills, and otherwise, in such manner as the Town Council think sufficient for giving information to all persons interested; they shall also send a copy thereof to each medical practitioner in the borough. Act 22, 1894.

46. It shall be lawful for any Town Council to make bye-laws for the supervision, in the interests of the general public, of works carried out on any premises connected, or to be connected, with the water or sewerage schemes of the borough, and for that purpose to make regulations for the control and licensing of plumbers, or other persons performing such works, and by such bye-laws or regulations to prevent the work being carried out by unlicensed persons, and to impose penalties on unlicensed persons performing any such works in manner provided for contraventions of bye-laws framed under Law No. 19 of 1872, and in the case of the performance of any such works by any licensed person in a negligent or unworkmanlike manner to the injury of any person or property, or contrary to any bye-law or regulation, to suspend such person for a period not exceeding six months from doing or performing any plumbing or other work connected, or to be connected, with the public water or sewerage schemes of the borough.

Works connected with sewers or water works.

Licensing of plumbers and others.

Suspension of license.

47. Town Councils are hereby authorised and empowered to make all necessary bye-laws for regulating traffic on the roads of their respective boroughs, and such bye-laws as may be deemed necessary for the imposition and collection of licenses on vehicles under any existing Law or future Act, including this Act, not exceeding the rates mentioned in the Schedule. Town Councils are also hereby authorised by means of bye-laws, from time to time, to make provisions for imposing and collecting such licenses, and to fix a tariff of rates and fares to be charged in respect of cabs, rickshas, or other passenger vehicles plying for hire, and to make regulations for the proper conduct and control of the drivers of such vehicles or the persons in charge thereof, the fixing of stands for such vehicles and the prevention of touting, and for imposing penalties on persons plying for hire with unlicensed vehicles, and generally for carrying out the objects of this clause.

Regulation of traffic.

Licenses on vehicles.

48. Any Town Council may license or refuse to license any person as a ricksha puller, and may charge for the license a sum not exceeding 2s. a month, payable in advance, and no unlicensed person shall ply for hire with a ricksha.

Ricksha pullers.

49. The production in any Court of Law of a book purporting to contain the bye-laws of any borough (A) shall be "prima facie" evidence that such bye-laws have been duly passed, approved, and published: Provided that nothing in this section contained shall be deemed to give any greater validity to any bye-law than would otherwise attach to it, nor prevent evidence being led to show that any bye-law has not been duly passed, approved, or published.

Proof of bye-laws in legal proceedings.

(A) Semble, this means a book purporting to be published by the authority of the Corporation (*Beningfield & Son v. Durban Corporation*, 18 N.L.R. 31).

Act 22, 1894. 50. The provisions of Section 74 of Law No. 19 of 1872 shall apply to the provisions contained in this Act.

Enforcement of by-laws. 51. Where any bye-laws are referred to in this Act, they shall be made and enforced, and prosecutions for the contraventions thereof conducted, and penalties imposed, in the same manner, and to the same extent, as in the case of bye-laws under "The Municipal Corporations Law, 1872"; which said Law and this Act shall be read and construed together as one Act.

Incorporation of Act with Law 19, 1872.

Arbitration.

52. Where arbitration is referred to in this Act it shall mean arbitration by one person appointed on either side, and in case of need by a third person appointed by them before entering on their duty, and if any question or difficulty shall arise as to the terms of the Deed of Submission, the same may be settled by any Judge of the Supreme Court; and if either party shall neglect to appoint an arbitrator, the arbitrator appointed on the other side shall have jurisdiction, and the award of the arbitrators, arbitrator, or umpire shall be final.

SCHEDULE

Vehicles used for the Purposes of Hire or Trade.

	£	s.	d.
Omnibus or Tramcar, yearly license, not exceeding	5	0	0
Trolley, yearly license, not exceeding	5	0	0
Wagon, yearly license, not exceeding	5	0	0
Cart, yearly license, not exceeding	2	10	0
Ricksha, yearly license, not exceeding	1	0	0
Any other vehicle on four wheels, yearly license, not exceeding	4	0	0
Any other vehicle on two wheels, yearly license, not exceeding	2	10	0

Vehicles used for Private Conveyance or otherwise.

	£	s.	d.
Carriages or vehicles (four wheels), yearly license, not exceeding	1	10	0
Carriages or vehicles (two wheels), not being Rickshas, yearly license, not exceeding	1	0	0

Act No. 22, 1895 (A).

"To further amend the 'Municipal Corporations Law, 1872,' and to give powers to Municipal Corporations for the regulation of the business of Pawnbrokers in boroughs."

[8th August, 1895.]

WHEREAS it is desirable to further amend the "Municipal Corporations Law, 1872," already amended in certain respects by the Act No. 22, 1894, entitled 'Act "To Amend the 'Municipal Corporations Law, 1872,' and to give extended powers to Municipal Corporations," and to give powers to Municipal Corporations for the regulation of the business of Pawnbrokers:

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:—

(A) Compare this Act with 35 & 36 *Manufacturing Co. v. Clark*, 5 Ex. D. 37; Vic. c. 93, and as to the subject of 49 L.J., Ex. 224. Pawnbrokers, generally see *Singer*

1. In this Act:—

Act 22, 1895.

Interpretation.

“Pawnbroker” includes every person who carries on the trade or business of taking movable property in pawn or pledge.

“Pledge” means an article pawned with a pawnbroker.

“Pawner” means a person delivering an article for pawn to a pawnbroker.

“Shop” includes dwelling-house and warehouse, or other place of business, or place where business is transacted.

“Unfinished Goods or Materials” includes any goods of any manufacture or of any part or branch of any manufacture either mixed or separate, or any materials whatever plainly intended for the composing or manufacturing of any goods, after such goods or materials are put into a state or course of manufacture, or into a state for any process or operation to be performed thereupon or therewith, and before the same are completed or finished for the purpose of wear, use, or consumption.

2. From and after the passing of this Act it shall and may be lawful for the Town Council of any borough to make bye-laws in terms of Law No. 19, 1872, for the regulation of the business of pawnbrokers in such borough, and requiring them to take out annual licenses, and to pay an Annual License Duty not exceeding Ten Pounds Sterling for each pawnbroker's shop in such borough.

Town Council
may make bye-
laws regulating
pawnbrokers.

3. Such bye-laws may provide:—

What such bye-
laws may
provide.

- (a) As to the books and documents to be kept and used by a pawnbroker in his business, and the forms thereof, and the entries to be made therein.
- (b) As to the inscription over a pawnbroker's shop and the notices to be exhibited therein.
- (c) As to the giving of pawn-tickets to pawners.
- (d) As to the profit and charges to be allowed to pawnbrokers.
- (e) As to the redemption of pledges and forfeiture of unredeemed pledges, or their sale by auction.
- (f) As to the accounting by the pawnbroker for any surplus on the sale of pledges.
- (g) As to special contract pawn-tickets.
- (h) As to the delivery up of pledges.
- (i) As to the liability of a pawnbroker in case of fire, or to make compensation for depreciation of pledges (A).
- (k) As to the delivery to the owner of property unlawfully pawned.
- (l) For summary order for delivery of pledges to persons entitled thereto.
- (m) As to the general restrictions on pawnbrokers.
- (n) For the protection of owners and pawners not having pawn-tickets.
- (o) For the prohibition of taking in pawn any linen or apparel or unfinished goods or materials entrusted to any person to wash, scour, iron, mend, manufacture, work up, finish or make up.
- (p) For regulating the granting of Pawnbrokers' Licenses to persons of good character.
- (q) For forfeiture of a Pawnbroker's License on his being convicted of any fraud in his business, or of receiving stolen goods knowing them to be stolen.

(A) As to liability in case of fire, in England, previous to 35 & 36 Vic., c. 93, see *Syred v. Carruthers*, E. B. & E. 469.

Act 22, 1895.

- (r) Providing against any person knowingly and designedly pawning anything being the property of another person, the pawner not being employed or authorised by the owner to pawn the same.
- (s) Dealing with cases where any person offers to a pawnbroker an article by way of pawn, being unable or refusing to give a satisfactory account of the means by which he became possessed of it or wilfully gives false information to a pawnbroker, or attempts or endeavours to redeem an article not being entitled and not having any colour of title to redeem the same.
- (t) Generally for carrying out this Act.

What may be prohibited by bye-laws.

4. Such bye-laws may prohibit pawnbrokers doing any of the following things:—

- (1) Taking an article in pawn from any person appearing to be under the age of twelve years, or to be intoxicated.
- (2) Purchasing or taking in pawn or exchange a pawn ticket issued by another pawnbroker.
- (3) Employing any servant, or apprentice, or other person under the age of sixteen years to take pledges in pawn.
- (4) Carrying on the business of a pawnbroker on Sunday, Good Friday, or Christmas Day, or a day appointed for public fast, humiliation, or thanksgiving, or as a public holiday.
- (5) Under any pretence purchasing, except at public auction, any pledge which is in pawn with him.
- (6) Suffering any pledge which is in pawn with him to be redeemed, with a view to his purchasing it.
- (7) Making any contract or agreement with any person pawning or offering to pawn any article, or with the owner thereof for the purchase, sale, or disposition thereof, within the time of redemption.
- (8) Selling or otherwise disposing of any pledge pawned with him, except at such time and in such manner as may be authorised by such bye-laws.

Licenses may be refused.

5. The Town Council may, at its discretion, refuse any application for a pawnbroker's license.

Who to be deemed to carry on the business of taking property in pawn.

6. The following persons shall be deemed to be persons carrying on the business of taking movable property in pawn, that is to say: Every person who keeps a shop for the purchase or sale of movable property, or for taking in movable property by way of security for money advanced thereon, and who purchases, or receives, or takes in movable property, and pays, or advances, or lends thereon any sum of money, not exceeding ten pounds, with or under an agreement or understanding expressed or implied, or to be from the nature or character of the dealing reasonably inferred, that such movable property may be afterwards redeemed or purchased on any terms; and every such transaction, article, payment, advance, and loan shall be deemed a pawning, pledge, and loan respectively within this Act.

Effect of sec. 74, Law 19, 1872.

7. The provisions of Section 74 of Law No. 19 of 1872 (A) shall apply to the provisions contained in this Act.

Prosecutions otherwise than under this Act.

8. Nothing in this Act shall prevent any person from being liable to any prosecution and punishment to which he would otherwise be liable, provided that he be not twice punished for the same offence.

Enforcement of bye-laws.

9. Where any bye-laws are referred to in this Act they shall be made and enforced, and prosecutions for the contraventions thereof

(A) Referring to the making of bye-laws.

conducted and penalties imposed, in the same manner and to the same extent as in the case of bye-laws under the "Municipal Corporations Law, 1872," and the Act No. 22, 1894, which said Law and Act and this Act shall be read and construed together as one Act. Act 22, 1895

Act No. 10, 1897.

"For the appointment of Borough Coroners."

[22nd May, 1897.]

WHEREAS it is expedient to provide for the appointment of Borough Coroners and the holding of Inquests within boroughs:

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:—

1. This Act may be cited as the "Borough Inquests Act, 1897." Short title.
2. In this Act "Town Council" means the Mayor and Town Councillors of any borough constituted under Law No. 19, 1872, or any similar Act. Interpretation.
3. The Town Council of any borough may, subject to the approval of the Governor in Council, appoint from time to time some fit and proper person to be the Coroner of such borough. Such Coroner shall hold office during pleasure, and shall be paid such salary as may be fixed by the Town Council. Appointment of Coroner.
4. The Town Council may in like manner appoint a Messenger of the Coroner. Messenger.
5. Whenever any dead body shall be found, or any case of sudden death, or of death attended with suspicious circumstances, shall occur in any borough, any police officer or person having knowledge of such occurrence shall at once give or cause to be given to the Coroner of such borough notice of the same, together with any information which may have been obtained concerning the finding of such body or concerning such death. Deaths to be reported to Coroner.
6. The Coroner may direct a "post-mortem" examination of any body by any medical practitioner, and, upon reasonable cause being shown, may order the body of any deceased person to be exhumed. Post-mortem examination.
7. The Coroner shall cause to be summoned by the Messenger all necessary medical and other witnesses in the same manner as witnesses are summoned in the Magistrates' Courts. Witnesses.
8. For the purposes of compelling the attendance of witnesses, and of punishment for disobedience to a summons, and of enforcing such punishments, the Coroner shall exercise the authority and powers of a Magistrate's Court, and for any of the said purposes the Messenger shall exercise the like authority as the Messenger of a Magistrate's Court. Jurisdiction of Coroner.
9. The Coroner may order any analysis which he considers necessary for the purposes of an inquest to be made by a competent analyst, or failing such, by a medical practitioner. Analysis.
10. The evidence of every witness at an Inquest shall be taken by the Coroner in the form of a deposition, and for the purpose of taking such evidence and depositions he shall exercise the powers of a Magistrate within the meaning of Ordinance No. 18, 1845. Taking of evidence.
11. The procedure of the Magistrates' Courts shall, so far as it may be applicable, be observed in the conduct of Inquests under this Act. Procedure.
12. Inquests shall be held in such place as shall be appointed for that purpose by the Town Council. Place of holding Inquests.

Act 10, 1897.
Custody of dead
bodies.

13. Every body upon which an Inquest is required to be held shall be placed and kept in the Borough Mortuary until the Coroner shall, by order in writing, authorise its being buried as hereinafter provided: Provided that in the event of a person dying suddenly in a house the body may be allowed to remain in such house if so desired by the relatives or friends of the deceased person: Such dead body, however, shall not be interred without the order in writing of the Coroner.

Certificate for
interment.

14. Upon the conclusion of any Inquest, or sooner if the Coroner be satisfied that no further examination of the body is necessary, the Coroner shall give to any relative or other person claiming the same, a certificate in writing permitting the body to be interred. If no such relative or other person shall be found, the Coroner shall order the body to be interred, at the cost, in the first instance, of the Corporation; but the expense of such interment may be recovered from any person who may afterwards appear to be liable therefor.

Documents to be
sent to At-
torney-General.

15. At the conclusion of every Inquest the Coroner shall forward to the Attorney-General the depositions and other documents, together with his report, and in such report he shall state whether, in his opinion, the death was due to natural causes or to design, accident, or negligence.

Offences.

16. Any person wilfully suppressing the fact of a sudden or suspicious death, or opposing or refusing to obey any lawful order of the Coroner, shall be guilty of an offence, and on conviction before a Magistrate shall be liable to a fine not exceeding Ten Pounds Sterling, and in default of payment to be imprisoned for any term not exceeding one month with or without hard labour.

Saving of other
offences.

17. Nothing in this Act shall be construed to prevent a prosecution for any offence which, but for this Act, any person might have been liable to prosecution.

Application of
fines.

18. All fines recovered under this Act shall be paid into and form part of the Borough Fund of the borough in which any offence under this Act was committed.

Expenses of
Inquests.

19. All expenses of and incidental to an Inquest shall be paid from the revenue of the borough upon the certificate of the Coroner. The expenses of witnesses shall be computed in the manner and according to the tariff provided by law in the case of preparatory examinations in criminal cases.

Act No. 26, 1898.

“To amend the ‘Municipal Corporations Law, 1872,’ and to give powers to Municipal Corporations for the prevention of Adulteration of articles of Food, Drink, and Drugs, in boroughs.”

[15th August, 1898.]

WHEREAS it is desirable to amend the “Municipal Corporations Law, 1872,” and to give powers to Municipal Corporations for the prevention of adulteration of articles of food and drink, and of drugs, in boroughs:

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:—

Short title and
application of
Act.

1. This Act shall be known as the “Adulteration of Food Act, 1898,” and shall apply to any borough established under the provisions of Law No. 19, 1872, or any like Act.

2. The term "Food" shall include every article used for food or drink by man, other than drugs or water (A). The term "Drug" shall include medicine for internal or external use. Act 26, 1898.
Meaning of terms.

3. From and after the passing of this Act it shall be lawful for the Town Council of any borough to make Bye-laws, in terms of Law No. 19 of 1872, for the extension of the provisions of this Act to such borough, and for the prevention of adulteration of articles of food and drink, and of drugs in such borough, and as to the appointment, tenure of office, powers, duties, and authority of Analysts and other officers to be appointed under this Act, and imposing for contraventions thereof penalties not exceeding Fifty Pounds Sterling and costs, or imprisonment not exceeding six months, with or without hard labour. Bye-laws for applying the Act to Boroughs.

4. Such Bye-laws may prohibit (B)—

- (1) The mixing, colouring, staining, or powdering of injurious ingredients or materials with any article of food (C), so as to render the article injurious to health. Things which may be prohibited by Bye-laws.
- (2) The selling of any such article so mixed, coloured, stained, or powdered.
- (3) The mixing, colouring, staining, or powdering 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.
- (4) Selling any drug so mixed, coloured, stained, or powdered.
- (5) Selling to the prejudice (D) of the purchaser (E) any article of food or drug which is not of the nature, substance, and quality (F) of the article demanded by such purchaser (G).
- (6) Selling any compound article of food or compounded drug which is not composed of ingredients in accordance with the demand of the purchaser.
- (7) Abstracting from an article of food any part of it, or adding to such article of food, with the intent that the same may be sold in its altered state without notice, so as to affect injuriously its quality, substance, or nature.
- (8) Selling any article so altered without making disclosure of the alteration (H).

5. The Town Council of any borough may, in such borough, appoint and remove one or more persons possessing competent knowledge, skill, and experience as Analysts of all articles of food, drink, and drugs purchased within such borough, and shall pay to such Analysts such salary or allowance as they may think fit. Analysts.

(A) See note to sec. 4, sub-s. (1) post.

(B) Compare 38 & 39 Vic. c. 63, and 42 & 43 Vic. c. 30 ("The Sale of Food and Drugs Act, Amendment Act, 1879"); and see sec. 25 of the latter Act, which provides a special defence for a person who has acted without guilty knowledge.

(C) Baking powder has been held not to be "an article of food" (*James v. Jones* [1894], 1 Q.B. 304), under the English Statute.

(D) Whether a sale for analysis is a sale "to the prejudice of the purchaser" was the subject of conflicting decisions in England and Scotland, which "The Sale of Food and Drugs Act Amendment Act, 1879," set at rest. That Act also destroyed the defence that the article must be proved to be defective

in all three respects, namely, "nature, substance, and quality."

(E) Therefore, not with the knowledge of the purchaser (*Sandys v. Small*, 3 Q.B.D. 149; 39 L.T. 118).

(F) See note (D) supra; see also *White v. Bywater*, 19 Q.B.D. 582.

(G) The agreement of the thing sold with what the purchaser would reasonably expect to get is a question of fact (*Webb v. Knight*, 2 Q.B.D. 530). See also, as to representation of the seller, *Kirk v. Coates*, 16 Q.B.D. 49.

(H) This would seem to cover a selling by a person not knowing the alteration, see *Pain v. Boughtwood*, 24 Q.B.D. 353; *Dyke v. Gover* [1892], 1 Q.B. 220; 65 L.T. 760; and *Jones v. Davies*, 69 L.T. 497.

Act 28, 1898.

Procurement and analysis of samples.

Complaint in case of adulteration.

Quarterly reports by Analysts.

Proof of unaltered condition of sample.

Analysis by request of a purchaser.

Certificate of Analysis.

Procedure to be followed in regard to taking samples.

Borough to bear expenses and receive fines under the Act.

Enforcement of By-laws; prosecutions.

Joint construction of Laws.

Application of sec. 74 of Law 19, 1872.

6. The Inspector of Nuisances, or other officer appointed by the Town Council, shall procure (A) and submit samples of articles of food or drink and drugs suspected to be adulterated, to be analysed by the Analyst appointed under this Act, and shall, upon receiving a certificate stating that the articles of food or drink or drugs are adulterated, cause the party selling or adulterating such articles of food or drink or drugs to be summoned to answer a complaint under this Act.

7. The Analysts appointed under this Act shall report quarterly to the Town Councils appointing them the number of articles of food or drinks or drugs analysed by them under this Act during the foregoing quarter, and shall specify the nature and kind of adulteration detected in such articles of food, drink, and drugs, and all such reports shall be read at the meetings of the Town Council appointing such Analysts.

8. On the hearing of any complaint under this Act in any borough wherein an Analyst shall have been appointed under this Act, the purchaser or Inspector of Nuisances or other Corporation officer shall prove to the satisfaction of the Court that the article of food or drink or drugs alleged to be adulterated was delivered to the Analyst in the same condition as regards its purity or impurity as it was when received from the seller.

9. Any purchaser of any article of food or drink or drugs in any borough in which an Analyst has been appointed as provided by this Act, shall be entitled on payment to the borough funds of a sum not exceeding ten shillings and sixpence to have such article analysed by the Analyst, and to receive from such Analyst a certificate of the result of his analysis specifying whether in his opinion such article is adulterated, and also whether if it be an article of food or drink it is so adulterated as to be injurious to the health of persons eating or drinking the same; and such certificate, duly signed by such Analyst, shall, in the absence of any evidence before the Court to the contrary, be sufficient evidence of the matters therein certified, and the sum directed to be paid for such certificate shall be deemed part of the costs.

10. All articles of food, drink, or drugs to be analysed by the Analyst to be appointed under this Act, shall be received from the Inspector of Nuisances or other Corporation officer, and from all such articles of food, drink, or drugs samples shall be taken and sealed in the presence of the Analyst by the Inspector or other officer to be retained by him, and produced in case the Court shall order other analyses to be made.

11. The expense of executing this Act in any borough shall be borne by the funds of such borough, and all fines recovered for contravention of any Bye-laws under this Act at the instance of the Corporation of any borough shall go to the funds of the borough.

12. Where any Bye-laws are referred to in this Act they shall be made and enforced, and prosecutions for the contravention thereof conducted, and penalties imposed in the same manner and to the same extent as in the case of Bye-laws under the "Municipal Corporations Law, 1872," which said Law and this Act shall be read and construed together as one Act.

13. The provisions of Section 74 of Law No. 19, 1872 (B), shall, except as varied by this Act, apply to the provisions contained in this Act.

(A) As to the manner of procuring samples and the position of a seller refusing to supply same, compare sec.

17 of 38 & 39 Vic. c. 63.

(B) These provisions refer to the making of Bye-Laws.

14. All contraventions of this Act or of any Bye-laws made under the authority of this Act, shall be heard and determined in the Court of the Magistrate having jurisdiction in the borough in which such contravention may have been committed.

Act 26, 1898.
Contraventions
cognizable by
Magistrates.

15. Nothing in this Act contained shall be held to affect the power of proceeding by indictment, or to take away any other remedy against any offender; and nothing contained in this Act, or any of the enactments recited in this Act, shall be construed in any way to derogate from or to limit the powers of the Attorney-General as conferred by the Ordinance No. 18, 1856, or any other Ordinance, Law, or enactment.

Saving as to
indictment and
other remedies
and as to powers
of Attorney
General.

Act No. 29, 1898.

“To amend ‘The Municipal Corporations Law Amendment Act, No. 22, 1894.’”

[15th August, 1898.]

WHEREAS it is expedient to amend Section 42 of Act No. 22, 1894:

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:—

1. Any Town Council may close such portion of any public park, walk, or pleasure ground under their control, or vested by them in trustees, as may have been set aside by such Town Council for games or sports, for any period not exceeding twenty-one days in all in any one year, and shall have the power, subject to the consent of two-thirds of the members thereof, of letting such portion of any such public park, walk, or pleasure ground, whenever so closed, at such rent as to the said Council may seem meet.

Closing and
letting of those
parts of parks
reserved for
games, &c.

2. In so far as Section 42 of Act No. 22, 1894, is in conflict with this Act, it shall be, and the same is hereby and to that extent repealed.

Construction of
Act 22, 1894,
s. 42.

3. This Act shall commence and take effect from and after the promulgation thereof in the “NATAL GOVERNMENT GAZETTE” (A).

Commencement

MUSEUMS.

[See “LITERARY AND OTHER SOCIETIES.”]

(A) August 23, 1898.

NATAL BANK.

Private Law, 1866.

"To enable the Directors and Shareholders of the Natal Bank, Incorporated by Law of Session, 1859, to amalgamate with any other Bank or Banking Company, Banks or Banking Companies, carrying on business in Natal or elsewhere, or to dispose of their Banking business to any such Company, Bank or Banks."

[3rd August, 1866.]

WHEREAS the directors and shareholders of the Natal Bank, incorporated by the Lieutenant Governor of the Colony of Natal, by and with the advice and consent of the Legislative Council thereof, on the 21st day of June, 1859, may deem it expedient to amalgamate with any other banking company, bank or banks, in Natal or elsewhere, or to dispose of their banking business to any such company, bank or banks, and the directors are desirous of obtaining all such necessary powers and authority as will enable them to amalgamate, or dispose of their business:

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, by and with the advice and consent of the Legislative Council thereof, as follows:—

Directors may arrange for amalgamation or disposal of bank or any branch,

1. It shall and may be lawful for the directors of the said Natal Bank, to arrange with any person or company, or with the directors of any company or companies, banking company or companies, bank or banks, for an amalgamation of the said Natal Bank with, or the disposal of the said Natal Bank, or any branch thereof, to such person, company or companies, bank or banks, and for the carrying on of the said business under the charter of incorporation of such bank or banks, banking company or companies, or under the charter of incorporation of the said Natal Bank, as shall or may be determined on by the directors of the said Natal Bank and such amalgamating company or companies, bank or banks.

And for future carrying on of business.

Any such arrangement shall require consent of shareholders at general meeting.

2. Provided always, that no such arrangement shall be final until the consent of the shareholders shall have been obtained at a general meeting of shareholders, to be called as follows: Public notice of the general meeting, stating the time when, the place at, and general objects for which it is to be held, shall be given in the "GOVERNMENT GAZETTE," and one or more local papers, at least five months before such meeting, and shall be published therein at least six times prior to such meeting; and written notice of the general meeting, stating the time when, the place at, and general objects for which it is to be held, shall be also sent by post or otherwise, to every shareholder at his last known residence, at least five months prior thereto: And if at such general meeting, two-thirds of the shareholders present, personally or by proxy, shall agree to such proposed amalgamation, sale, or disposal, and if shareholders registered in possession of at least one-fifth of the subscribed capital shall not have given notice in writing to the board of directors at or before such meeting aforesaid, and no later, of their dissent from such proposed amalgamation, sale, or disposal, as hereinafter provided, then such resolution shall be as binding on the rest of the shareholders, to all intents and purposes, as though they had been present and consenting thereto; and all voting shall take place as provided by the Law incorporating the bank.

Two-thirds of shareholders must agree, and shall bind the rest.

3. Provided also, that it shall be lawful for any shareholder to give notice, in writing, to the board of directors, at or before such meeting, and no later, of his dissent to such proposed amalgamation, sale, or disposal; and the assenting shareholders shall, if required, indemnify such dissenting shareholder or shareholders against his or their liabilities in respect to the said bank as a shareholder or shareholders, and also purchase the shares of such dissenting shareholders at such amount in respect of every share, as shall be determined by arbitration in the following manner, that is to say:—Two arbitrators shall be chosen, one by each party; these arbitrators shall proceed to arbitrate upon the matter in question; and if such arbitrators shall be unable to come to an agreement, then they shall choose an umpire, whose decision shall be final and conclusive on both parties; provided always, that no such indemnification shall be claimed, unless such amalgamation, sale, or disposal shall be actually accomplished.

Private Law,
1866.

Dissenting shareholder may, before meeting, give written notice of dissent.

Rights of dissentients in regard to proposed amalgamation, &c.

4. This Law shall be taken to be a Public Law, and shall commence and take effect from and after the publication thereof in the "GOVERNMENT GAZETTE" (A).

Commencement

Law No. 43, 1888.

"To Amend the Laws relating to the Natal Bank, and to continue the incorporation of the same under the title of 'The Natal Bank (Limited).'"

[15th January, 1889.]

WHEREAS it is desirable that authority be given to increase the capital of the Natal Bank, and to continue the incorporation of the said Natal Bank under the title of The Natal Bank (Limited):

AND WHEREAS it is desirable to amend and consolidate the several provisions of the "Natal Bank Laws, 1875 and 1885":

BE IT THEREFORE ENACTED by the Governor of the Colony of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

1. The Law No. 18 of 1875, entitled "Law to amalgamate with certain necessary corrections the Laws Nos. 9, 1874, and 1, 1875, relating to the Natal Bank," and the Law No. 28, of 1885, entitled "Law to amend the Natal Bank Law, 1875," shall be, and the same are hereby repealed, subject, however, to such reservations and provisions as are hereinafter contained.

Repeals.

2. The Joint Stock Company at present carrying on business as Bankers at Pietermaritzburg, and other places in the Colony of Natal, and elsewhere in South Africa, under the name, style, or title of "The Natal Bank," shall be, and the same is hereby continued to be incorporated, and is declared to be a body corporate with limited liability, and as such shall have perpetual succession, and shall have and use a common seal with the name of the Company thereon. The said Company shall henceforth be called, designated, and known under the name, style, or title of The Natal Bank (Limited), with the powers hereinafter provided.

Incorporation of "The Natal Bank."

3. All Directors and other officers and servants of the Natal Bank, who were in office immediately before the passing of this Law, shall hold and enjoy their respective offices and employments, together with the salaries and emoluments thereunto annexed, until they shall resign the same, or be removed therefrom by The Natal Bank (Limited), and

Directors and other officers, &c., to continue in office as if appointed under this Law.

(A) August 7, 1866.

Law 43, 1888. shall be subject and liable to the like conditions, obligations, pains, and penalties, and to the like powers of removal, and to the like rules, restrictions, and regulations in all respects whatsoever, as if they had been appointed under this Law.

Saving of debts, contracts, engagements, &c., entered into prior to this Law.

4. The provisions of this Law shall not affect or prejudice any debts, liabilities, obligations, or contracts incurred or entered into by, to, with, or on behalf of the Natal Bank, and shall not affect or prejudice the liability of The Natal Bank (Limited), to have enforced against it or its right to enforce any debt or obligation incurred, or any contract entered into by, to, with, or on behalf of the Natal Bank previously to the passing of this Law.

5. And whereas the subscribed capital of the Natal Bank at the present time is a sum of Three Hundred Thousand Pounds sterling, composed as follows:—Of 25,884 shares of Five Pounds sterling each, upon each of which the said sum of Five Pounds sterling has been paid up; and of 34,116 shares of Five Pounds sterling each, upon each of which the sum of One Pound sterling has been paid up, and a further sum of Four Pounds can be called up at any time at the discretion of the Board of Directors: And whereas, under and by virtue of the provisions of the Natal Bank Law, 1875, the proprietor or holder of each Five Pound share, upon which the full amount of Five Pounds sterling has been paid up, is liable, in the event of the Natal Bank becoming bankrupt or insolvent, to contribute a further sum of not exceeding Five Pounds sterling per share towards the payment of the losses, debts, and liabilities of the said Bank: And whereas it is also provided that the liability of any proprietor or holder of shares upon which the amount of Five Pounds sterling has not been paid up to pay any instalment or call now due or made, or hereafter to be made, until the sum of Five Pounds sterling be paid upon such share, shall in no way be diminished or affected: And whereas it is desirable to alter the denomination of the said shares, and to increase the nominal amount of the Capital of the Natal Bank (Limited) by increasing the nominal amount of each of its shares from a sum of Five Pounds sterling to Ten Pounds sterling: Be it therefore enacted as follows:—The Capital of the Natal Bank (Limited) shall be Two Million Pounds sterling, consisting:

Capital of Bank to be £2,000,000.

(1) Of the present subscribed capital of £300,000, divided into 60,000 shares of £5 each, upon all of which, when the amount of £5 has been fully paid up, an additional sum of not exceeding £5 is payable in the event of the Bank becoming bankrupt or insolvent, thus representing an amount of £600,000.

(2) Of an additional capital of £1,400,000 to be divided into 140,000 shares of £10 each: Provided always that no greater sum than £5 shall be capable of being called up upon any of such shares, except in the event of and for the purposes of the Natal Bank (Limited), being wound up.

The additional capital above mentioned shall be raised in manner hereinafter mentioned, and the provisions of this Law shall apply to the new capital in the same manner in all respects as to the original capital of the Company.

Creation of additional shares.

6. The Directors of the Natal Bank (Limited) may from time to time create and issue such number of additional shares, not exceeding 140,000 in the aggregate of the nominal value of £10 each, as they shall deem advisable.

Conditions of issue.

The new shares shall be issued upon such terms and conditions [and with such rights and privileges annexed thereto (A)] as the

(A) Words in brackets are expunged by Law 15, 1889, post.

Directors shall determine: Provided that no greater sum than £5 shall be capable of being called up upon each £10 share, except in the event of and for the purposes of the Bank being wound up. Law 43, 1888.

The new shares so issued may be sold and disposed of at a fixed price, or by tender, and in either case the Directors may make regulations respecting the same as to the payment of the instalments thereon, and as to the levy and payment of calls thereon as they may deem advisable. Sale of new shares.

Notice of any determination to issue new shares, and of the terms, conditions, and regulations of such issue, shall be given by the Directors, by notice published in the "NATAL GOVERNMENT GAZETTE," and such other newspapers, whether published in the Colony of Natal or elsewhere, as the Directors may deem advisable. Such notice shall be first published at least three months before the date upon which applications shall be received for such new shares: Provided that when such shares shall be sold at a fixed price, the proprietors of this Bank for the time being shall have the option of purchasing them in preference and to the exclusion of non-proprietors, in the first instance "pro rata" to the number of shares they then hold: Provided, nevertheless, that it shall and may be lawful for the Directors, at a Board at which two-thirds of the Directors shall be present, from time to time to cancel the creation of any such additional shares which shall not have been subscribed for within six months from the date of their creation, and of such cancellation they shall give due notice, or to alter the terms and regulations under and subject to which the same shall have been offered for sale, and of such altered terms and regulations they shall give notice as is provided in respect to the original terms and regulations, and such capital, with the capital already subscribed for, shall not exceed the sum of £2,000,000, and the shares and subscriptions which may constitute the same shall be subject in every respect to the same conditions and regulations as those applying to the original capital: Provided, that when tenders are invited for shares, the minimum price that will be accepted for such shares shall be stated in the advertisement. Notice of issue.

7. Notwithstanding the repeal of the Laws Nos. 18, 1875, and 28, 1885, all certificates of shares (until cancelled under the powers of this Law), sales, transfers, and dispositions heretofore made or executed under them, for and with respect to any shares in the Natal Bank, shall remain in full force and continue, and be available in all respects as if the title and designation of the Bank had not been altered to The Natal Bank (Limited). Option of proprietors to purchase.

8. The books kept by the Natal Bank for entering the names and designations of the shareholders thereof, with the number of their shares and the proper distinguishing number of such shares shall, and may continue to be kept for the same purpose by The Natal Bank (Limited), and shall until some other register of shareholders shall be provided, be taken and considered as the register of shareholders required to be kept by The Natal Bank (Limited) under the provisions of this Law. Cancellation of creation of shares, if not subscribed within six months.

9. The Natal Bank (Limited) may call in and cancel the existing certificates of shares, of £5 each, in the Natal Bank, and shall thereupon issue, in lieu thereof, certificates of shares of £10 each: Provided that no part of the increased capital shall be capable of being called up, except in the event of and for the purposes of the Bank being wound up. Repeal of former laws not to affect sales, transfers, &c., thereunder.

10. Any existing shareholder may request that his certificates of shares of £5 each may be exchanged for certificates of shares of £10 each, upon which no greater sum than £5 shall be capable of being Register of shareholders.

Issue of new certificates.

Shareholders may request exchange of £5 share certificates for £10 certificates.

Law 43, 1888. called up, except in the event of and for the purposes of the Bank being wound up. But the holders of such existing certificates of shares shall not be entitled to any certificates under this Law until they shall have delivered up to the Company, to be cancelled, the certificates of shares issued to them before the passing of this Law, or shall have proved to the satisfaction of the Company the loss or destruction thereof.

Stamp duty on certificates.

11. The Stamp Duty on every certificate of shares in the Natal Bank (Limited) issued in lieu of any existing certificate of shares in the Natal Bank, and all other expenses of or incident to its issue, shall be borne by the Natal Bank (Limited).

When shares may be declared forfeited.

12. In case any person who shall have agreed to subscribe for one or more share or shares in the capital funds of the Bank shall fail to pay any or either of the instalments on any such share or shares for the space of one calendar month after the same shall have become payable, it shall and may be lawful for the Directors for the time being of this Bank, if they shall see fit, to declare, by resolution, such share or shares to be forfeited; and the same shall be thereupon forfeited accordingly. And it shall and may be lawful for the said Directors to create new shares in lieu of such forfeited shares, and to sell and dispose of the same to any other person or persons: Provided, however, that nothing herein contained shall prevent the said Directors from bringing and maintaining their action against any proprietor failing to pay as aforesaid, if the said Directors shall think fit to do so, instead of declaring his share or shares to be forfeited as aforesaid: Provided that no share shall vest in the said Company until notice thereof has been given to the person, or to the clerk or other officer, of any body politic in whose name such share stands in the register book, the same to be left at the place, or the last known place, of abode of the party, thirty days, at least, previous to such vesting; and in case the place of abode be unknown, then the notice shall be published twice in the "GOVERNMENT GAZETTE," and in such newspapers as the Directors direct.

Register of proprietors.

13. The Directors shall cause to be kept in one or more books a register of all the proprietors of shares in the capital funds of this Bank, and there shall be entered therein the following particulars:—

- (a) The names, addresses, and the occupations, if any, of all the proprietors of shares: The number of shares held by each proprietor, distinguishing each share by its number: The amount paid on the shares of each proprietor.
- (b) The date at which the name of any person was entered in the register as a proprietor of shares.
- (c) The date at which any person ceased to be a proprietor.

And a list of such proprietors of shares, with the number of shares held by them respectively, shall be made up and completed four times in each and every year within seven days after the last days of the respective months of March, June, September, and December. And each such list, when so made up and completed, shall be and remain exposed at the Head Office of the said Bank in Pietermaritzburg, and thereafter with all convenient despatch at all the branches thereof, until such time as it is replaced by the next succeeding quarterly list.

Share certificates prima facie evidence of title.

14. A certificate signed by any three of the Directors and countersigned by the Manager, or some other person appointed by the Directors, specifying any share or shares held by any proprietor, shall, when delivered to such proprietor of shares, be "prima facie" evidence of the title of the proprietor to the share or shares therein specified. Every proprietor shall be entitled to one certificate for any shares upon which the sum of Five Pounds has been paid up, and one for any shares

upon which a smaller sum has been paid up, registered in his name, or to several certificates each for a part of such shares. Every certificate of shares shall specify the respective register numbers of the shares in respect of which it is issued, and the amount paid up thereon. Each proprietor of shares shall be entitled to claim that the share certificates now issued under the "Natal Bank Laws, 1875 and 1885," and now held by him, shall be exchanged for one or more certificates as above provided for. A sum of not exceeding Two Shillings and Sixpence shall be paid to the Bank for every certificate to be issued. Law 43, 1888.

15. If any certificate be worn out or defaced, then, upon production thereof to the Directors, they may order the same to be cancelled, and may issue a new certificate in lieu thereof; and if any certificate be lost or destroyed, then, upon proof thereof to the satisfaction of the Directors, and on such indemnity as the Directors deem adequate, being given, a new certificate in lieu thereof shall be given to the party entitled to such lost or destroyed certificate. And for every such certificate a sum of not exceeding Two Shillings and Sixpence shall be paid to the Bank. Issue of new for defaced or lost certificates.

16. The Natal Bank may cause to be kept in London a branch register of proprietors resident in the United Kingdom of Great Britain and Ireland. And the Directors may from time to time appoint an authority in London to approve of or reject transfers and to direct the registration of approved transfers in the branch register in London, and every such authority may in respect of transfers or other entries proposed to be registered in the branch register for which such authority is appointed, exercise all the powers of the Directors in the same manner and to the same extent and effect as if the Directors themselves were actually present in London and exercised the same. The authority so appointed shall transmit to the Head Office in Pietermaritzburg a copy of every entry in the said branch register as soon as may be after such entry is made, and the Natal Bank shall cause to be kept at its Head Office, duly entered up from time to time, a duplicate of the said branch register. The shares registered in such branch register shall be distinguished from the shares registered in the principal register; and no transaction with respect to any shares registered in the branch register shall, during the continuance of the registration of such shares in such branch register, be registered in the principal register. The Natal Bank may discontinue to keep such branch register, and thereupon all entries in that register shall be transferred to the register of proprietors kept at the Head Office in Pietermaritzburg. Branch register of proprietors resident in United Kingdom.

17. The proprietor of any share or shares in the capital funds of The Natal Bank (Limited) may sell and dispose of the same, and assign and transfer his right, title, and interest in the same by executing an instrument of transfer in a form to be approved by the Directors, and to be signed both by the transferor and transferee, and the transferor shall be deemed to remain the holder of such share until the name of the transferee is entered in the register thereof. Every instrument of transfer shall be left at the Head Office of the Bank in Pietermaritzburg for registration, accompanied by the certificates of the shares to be transferred, and such other evidence as the Directors may require to prove the title of the transferor or his right to transfer the shares. The Directors may decline, at their absolute discretion, to register any transfer of shares without assigning any reason therefor. All instruments of transfer which shall be registered shall be retained by the Bank; but any instrument of transfer which the Directors may decline to register, shall be returned to the person depositing the same. The Directors shall, in the case of Disposal and transfer of shares.

Law 43, 1888. all transfers approved, cause the transferor's certificates of shares so transferred to be cancelled, and such new certificate or certificates of shares to be issued to the transferor and transferee, or either of them, as may, under the provisions of this Law, be requisite (A). A fee not exceeding Two Shillings and Sixpence may be charged for each certificate, and shall, if required by the Directors, be paid before the registration of any transfer. The transfer-books may be closed during such time as the Directors think fit, not exceeding in the whole thirty days, immediately preceding the ordinary general meeting in each year (B).

Provision in case of insolvency or death of a proprietor for disposal of shares.

18. In case any proprietor, wherever resident, of any share or shares in the capital funds of this Bank shall assign or surrender his estate for the benefit of his creditors, or shall have his estate sequestered by the order of any competent Court, or shall die, the trustee or assignee appointed under such assignment or sequestration, or the executor or administrator of such deceased shareholder, shall not as such be permitted to become a proprietor in this Bank; but such trustee, assignee, executor, or administrator shall sell, dispose of, or transfer the said share or shares of the proprietor whose estate shall have been assigned, surrendered, or sequestered, or who shall have died as aforesaid, within twelve months from the date of his election in the case of any trustee or assignee, and within twelve months from the death of any such proprietor in the case of any executor or administrator, subject to the regulations and conditions hereinafter (c) contained as to the transfer of shares; and no transfer thereof shall be valid unless approved by the directors: And in default of such sale, disposal, or transfer, such share or shares may, in the discretion of the directors, immediately upon the expiration of the said period of twelve months (d), be forfeited and cancelled, and new shares may be created in lieu thereof, which new shares, when created, shall be sold for the benefit of the estate of such assignor, insolvent, or deceased person, and the net proceeds held at the disposal of any person legally entitled thereto: And provided also that no dividend which shall become due on any such share or shares, after the title of such trustee, assignee, executor, or administrator shall have accrued, shall be payable to, or demandable by him, but shall, till some person shall have become a shareholder of the Bank in respect of the same shares, remain in suspense, and shall not be paid till the transfer thereof shall be completed, and the new holder thereof shall claim the same, and shall be then payable without interest to such new shareholder: Provided, however, that the provisions of this section shall not apply to the share or shares of any deceased person who shall have died prior to the coming into effect of the Law No. 28 of 1885, known as the "Natal Bank Law Amendment Law, 1885."

Proviso.

Payment of dividends to married woman.

19. Any married woman, in whose sole name, as proprietor thereof, any shares in The Natal Bank (Limited) shall be registered, is hereby authorised and empowered to receive the dividends and profits accruing due and payable in respect of such shares, without the concurrence of her husband, and her receipt for such dividend or profits shall be a full and sufficient discharge to the Natal Bank and Directors, Manager, and Officers thereof.

(A) See Act 32, 1897, s. 2, post, enabling transfer by endorsement.

(B) See Act 32, 1897, s. 3, post, which adds the words "and for such further time not exceeding in the whole fourteen days immediately following the thir-

tieth day of June in each year."

(c) See Act 32, 1897, s. 7, post, substituting "herein" for "hereinafter."

(d) The words "or at any time thereafter" are inserted by Act 32, 1897, s. 7, post.

20. No minor shall be permitted to become the proprietor of any share in the capital funds of this Bank, and any person who shall become the holder of any share or shares as guardian or trustee for any minor shall be personally liable to pay any calls or claims which may accrue on account thereof, so long as the person for whom he shall hold the same shall remain under age.

Law 43, 1888.
Minors.

21. If any share shall stand in the names of two or more persons, the person first named in the register may, at the option of the Directors, be—as regards voting at meetings, receipt of dividends, services of notices, and all or any other matters connected with the Bank, except the transfer of the share—deemed the sole holder thereof.

Joint ownership.

22. Every shareholder whose share or shares in the capital funds of The Natal Bank (Limited) shall have been transferred to any other person under the provisions of this Law, shall be released and discharged, as between himself and the other shareholders, from all and every liability, claim, and demand whatsoever to which he would have been liable in respect of such share or shares in case such share or shares had not been transferred.

Shareholder having transferred his shares discharged from further liability.

23. All purchasers and transferees of shares in this Bank shall save harmless and keep indemnified the person or persons from whom they shall have purchased or obtained the same from all liability, loss, costs, damages, and expenses in respect thereof in the event of The Natal Bank (Limited) being wound up, unless such purchaser can prove any fraud or misrepresentation on the part of the seller, by means of which he was induced to become the purchaser thereof as aforesaid.

Purchasers to indemnify sellers.

24. No person shall in his own right possess or hold shares in the capital funds of this Bank to a larger amount in respect to the subscribed value than one-twentieth of the entire capital, except the excess shall have accrued to him by marriage, inheritance, or bequest.

Limit of holding by one person.

25. All property of every description, movable and immovable, all lands, tenements, hereditaments, moneys, credits, goods, chattels, effects, securities for money, obligatory instruments, and evidences or muniments, and all other effects whatsoever belonging to or had by the Natal Bank, or by trustees therefor, or by the Chairman and Directors of the said Natal Bank, or by the proprietors thereof for any purpose, or for any trust whatsoever, shall from and after the commencement of this Law, without any assignment or conveyance, become vested in the Board of Directors of The Natal Bank (Limited), for the time being, to be by them held and enjoyed, dealt with, and disposed of by the said Directors as they shall think fit, and shall for all purposes of action or suit at law, or in equity, subject to the equities affecting the of the commencement of this Law, shall be paid by or recoverable from The Natal Bank (Limited).

Property of Natal Bank vested in Board of Directors of Natal Bank, Ltd

26. All persons who may be indebted to the Natal Bank or to the Trustees, Chairman, and Directors thereof, at or prior to the commencement of this Law, in any sum or sums of money on account of the said Bank, shall pay the same to The Natal Bank (Limited). All contracts, agreements, bonds, covenants and securities, made and entered into with the said Natal Bank, or the Trustees, Chairman, Directors, or Manager thereof, may be proceeded on and enforced by The Natal Bank (Limited), as if the same had been entered into with such Bank.

Transfer of debts, contracts, &c.

27. All moneys due and owing by the Natal Bank, or the Chairman and Directors thereof, on behalf of the said Bank, at the time of the commencement of this Law, shall be paid by or recoverable from The Natal Bank (Limited).

Novation of debts.

28. All cash, money, bills, notes, cheques, drafts, or other valuable securities which shall hereafter be received from the depositors of The

Deposits vested in Board of Directors.

20. No minor shall be permitted to become the proprietor of any share in the capital funds of this Bank, and any person who shall become the holder of any share or shares as guardian or trustee for any minor shall be personally liable to pay any calls or claims which may accrue on account thereof, so long as the person for whom he shall hold the same shall remain under age.

Law 43, 1888.
Minors.

21. If any share shall stand in the names of two or more persons, the person first named in the register may, at the option of the Directors, be—as regards voting at meetings, receipt of dividends, services of notices, and all or any other matters connected with the Bank, except the transfer of the share—deemed the sole holder thereof.

Joint ownership.

22. Every shareholder whose share or shares in the capital funds of The Natal Bank (Limited) shall have been transferred to any other person under the provisions of this Law, shall be released and discharged, as between himself and the other shareholders, from all and every liability, claim, and demand whatsoever to which he would have been liable in respect of such share or shares in case such share or shares had not been transferred.

Shareholder having transferred his shares discharged from further liability.

23. All purchasers and transferees of shares in this Bank shall save harmless and keep indemnified the person or persons from whom they shall have purchased or obtained the same from all liability, loss, costs, damages, and expenses in respect thereof in the event of The Natal Bank (Limited) being wound up, unless such purchaser can prove any fraud or misrepresentation on the part of the seller, by means of which he was induced to become the purchaser thereof as aforesaid.

Purchasers to indemnify sellers.

24. No person shall in his own right possess or hold shares in the capital funds of this Bank to a larger amount in respect to the subscribed value than one-twentieth of the entire capital, except the excess shall have accrued to him by marriage, inheritance, or bequest.

Limit of holding by one person.

25. All property of every description, movable and immovable, all lands, tenements, hereditaments, moneys, credits, goods, chattels, effects, securities for money, obligatory instruments, and evidences or muniments, and all other effects whatsoever belonging to or had by the Natal Bank, or by trustees therefor, or by the Chairman and Directors of the said Natal Bank, or by the proprietors thereof for any purpose, or for any trust whatsoever, shall from and after the commencement of this Law, without any assignment or conveyance, become vested in the Board of Directors of The Natal Bank (Limited), for the time being, to be by them held and enjoyed, dealt with, and disposed of by the said Directors as they shall think fit, and shall for all purposes of action or suit at law, or in equity, subject to the equities affecting the of the commencement of this Law, shall be paid by or recoverable from The Natal Bank (Limited).

Property of Natal Bank vested in Board of Directors of Natal Bank, Ltd

26. All persons who may be indebted to the Natal Bank or to the Trustees, Chairman, and Directors thereof, at or prior to the commencement of this Law, in any sum or sums of money on account of the said Bank, shall pay the same to The Natal Bank (Limited). All contracts, agreements, bonds, covenants and securities, made and entered into with the said Natal Bank, or the Trustees, Chairman, Directors, or Manager thereof, may be proceeded on and enforced by The Natal Bank (Limited), as if the same had been entered into with such Bank.

Transfer of debts, contracts, &c.

27. All moneys due and owing by the Natal Bank, or the Chairman and Directors thereof, on behalf of the said Bank, at the time of the commencement of this Law, shall be paid by or recoverable from The Natal Bank (Limited).

Novation of debts.

28. All cash, money, bills, notes, cheques, drafts, or other valuable securities which shall hereafter be received from the depositors of The

Deposits vested in Board of Directors.

Law 48, 1888. Natal Bank (Limited), or any other person or persons, according to the provisions of this Law, shall vest in the Board of Directors.

Head office. 29. The head office, or place of business, of The Natal Bank (Limited) shall be in Pietermaritzburg.

Business confined to banking 30. The business of The Natal Bank (Limited), whether carried on at the head office in Pietermaritzburg, or at the several branches or agencies of the said Bank already established, or hereafter to be established in pursuance of this Law, shall be exclusively confined to banking in all its branches, and shall consist in particular in the keeping of cash accounts and receiving moneys, securities and valuables on deposit, or for safe custody; in the issuing and circulating promissory or bank-notes, payable in specie to the bearer on demand, at the office from which they may have been issued; in the lending of money with or without security on cash or other accounts; in the purchasing or discounting of, and dealing in, bills of exchange, acceptances, promissory notes, letters of credit, drafts, bonds, and other negotiable securities, public or private; in the purchase of, dealing in, or making advances upon, bullion, specie, coin, gold nuggets, gold dust, diamonds and precious stones, and generally in transacting all such agency and other business as is usually transacted by banking establishments and concerns in the United Kingdom or in British possessions, and as may be consistent with the laws now or hereafter to be in force concerning banking companies (A). The said Company shall not invest, lay out, employ, or advance money on security of lands, or houses, or ships, or on pledge of merchandise, nor purchase nor hold land nor houses nor other real property whatsoever, except for the transaction of its business, nor own ships, or be engaged or concerned in any manner of trade, except as dealers in bullion, specie, coin, gold nuggets, gold dust, diamonds, and precious stones, or bills of exchange; and shall confine its transactions to legitimate banking business in all the various branches thereof. The Company shall not lend or advance money to any shareholder on the security of any shares which he may hold or possess in the capital funds of the Bank, nor hold, except as herein provided, shares in its own stock. The Company may, however, accept or hold lands, or houses, or ships, or shares in its capital, or other real or personal property in, or towards, satisfaction, liquidation of, or as a security for any debt "bona fide" previously due and owing to the Company, or as a security for payment of any sum for which any person may have rendered himself liable to the Company, and hold, maintain, improve, and deal with them for such reasonable time as, in the opinion of the Directors, may be necessary and expedient to dispose of and convert the same into money; and also to sell, dispose of, and convert the same into money; and in no case whatever shall the said Company engage or be concerned in any other description of trade or mercantile business whatever.

No loan to be made on security of shares.

Bank may sue and be sued in name of General Manager.

31. The Natal Bank (Limited) may sue and be sued in the name of its General Manager, in all courts, whether of law or equity; and in all cases where it is necessary to serve any writ, summons, citation, declaration, notice, or other proceeding upon the said Bank, service, personally on the General Manager, at the head office of the Bank, in Pietermaritzburg, or by leaving such writ, summons, citation, declaration, notice, or other proceeding at the said head office, shall be and be deemed to be good and sufficient service.

Suits not abated by change of officers.

32. No suit or action, instituted by or against The Natal Bank (Limited) shall abate by reason of any change in the officers of the said Bank, or of any of the persons for the time being filling the office

(A) See further business matters specified by Act 32, 1897, s. 8, post.

or discharging the duties of the respective offices of Chairman of the Board of Directors, or of a Director of the said Bank, or of its General Manager, or of any other office created under and by virtue of the provisions of this Law. Law 43, 1888.

33. In all actions, civil or criminal, in any and every court, relative to any property, movable or immovable, of the said Bank, it shall be sufficient to describe the same as the property of The Natal Bank (Limited). How Bank to be described in actions.

34. In all actions, suits, or other proceedings at law, brought, commenced, carried on, and prosecuted by The Natal Bank (Limited) against any shareholder or shareholders thereof, and in all actions, suits, or other proceedings at law, brought, commenced, carried on, and prosecuted by any shareholder or shareholders against The Natal Bank (Limited), the partnership hereby established shall form no bar to such action, suit, or other legal proceeding being carried on and proceeded in. Partnership no bar to suits by or against shareholders.

35. The Directors at their discretion may from time to time cause to be issued promissory notes, bearing date at the place of issue, and payable on demand there in British sterling money, or the equivalent thereof in the local currency at the place of date. Any such promissory notes shall be numbered in numerical progression, and be signed by such number of the Directors or other officers of this Bank as the Directors shall from time to time appoint; and the numbers and particulars of all notes issued shall be entered into a book to be kept for that purpose. Issue of notice.

36. All promissory or bank notes issued and circulated by The Natal Bank (Limited), whether issued from the head office or from any branch office, shall bear date at the place of issue, and shall be payable on demand in British sterling money, or the equivalent thereof in the local currency at the place of date. No such promissory or bank note shall be issued for a sum under One Pound sterling, or the equivalent thereof in the local currency of the place of date, nor for any amount in which a fractional part of a Pound sterling is included. The total amount of the promissory or bank notes payable on demand so issued and circulated by The Natal Bank (Limited) shall not at any time exceed the amount of the paid-up capital of the Bank. Specie equal to at least one-third in value of the promissory or bank notes from time to time in circulation, shall always be retained in the coffers of the Bank at the office where they are respectively made payable. Date of notes.
Payment.
Amounts.
Total amount of notes.
Amount of specie to be retained.

37. The Natal Bank (Limited) shall not be entitled to limited liability in respect of its notes, and the members thereof shall continue liable in respect of its notes in the same manner as if it were incorporated as a company with unlimited liability; but in case the general assets of the Bank are, in the event of The Natal Bank (Limited) being wound up, insufficient to satisfy the claims of both the note holders and the general creditors, then the members, after satisfying the remaining demands of the note holders, shall be liable to contribute towards payment of the debts of the general creditors a sum equal to the amount received by the note holders out of the general assets of the Company. For the purposes of this section, the expression "the general assets of the Company" means the funds available for payment of the general creditor as well as the note holder. It shall be lawful for the Directors of The Natal Bank (Limited), in their discretion, to make a statement on its notes to the effect that the limited liability does not extend to its notes, and that the members of the Company continue liable in respect of its notes in the same manner as if it were incorporated as a Company with unlimited liability. Liability of members in respect of notes.

Law 43, 1888.

Bills of Exchange, promissory notes, bonds and negotiable securities.

38. The said Natal Bank (Limited) may make, accept, indorse, and execute promissory notes, bills of exchange, and such deeds, bonds, or other notes and negotiable securities as may be requisite, provided that every such promissory note, bill of exchange, deed, bond, or other note or negotiable security, shall be signed by such person or persons as the Directors shall by any resolution or minute, to be entered in their books of proceedings, authorise in that behalf; and any such promissory notes, bills of exchange, deeds, bonds, or other notes and negotiable securities, signed and executed by such person or persons authorised as aforesaid shall be valid in Law, and shall be binding on the said Natal Bank (Limited), and the proprietors thereof.

39. [Repealed by Act No. 32, 1897.]

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

40. The Natal Bank (Limited) shall not hold shares in its own capital stock, nor shall it make advances on the security of such shares.

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

41. The total amount of the debts and liabilities of The Natal Bank (Limited), whether upon bonds, bills, promissory notes, or otherwise contracted over and above the amount of deposits on banking accounts with the Bank's establishments shall not at any time exceed three times the amount of the capital stock subscribed and actually paid up.

List of proprietors to be furnished to General Meetings.

42. The General Manager for the time being of this Bank shall, previous to the commencement of business at any annual or special general meeting of the shareholders of the Natal Bank (Limited), hand in to and place upon the table of such meeting a list of the proprietors of a share or shares in the capital funds of the said Bank, stating the number of shares held by each shareholder and the number of votes which each such shareholder shall, under the provisions of this Law, be entitled to give at such meeting in respect thereof.

Quorum of general meetings.

43. Five members, personally present, shall be a quorum at a general meeting for the purpose of nominating if necessary a chairman of the meeting, of hearing a declaration of a dividend determined upon by the Directors, of electing Auditors and Directors, but save as aforesaid no business shall be transacted at any general meeting unless there be ten members personally present.

Annual general meeting.

44. A general meeting of the shareholders of this Bank shall be held on the second Thursday in February in each and every year. At each such annual meeting the Directors shall lay before the shareholders a duly audited statement of the accounts, and a report of the general state of the affairs of the Bank, and of the profits made during the year ending on the previous 31st December; such accounts and report shall be signed by the Chairman of the Board of Directors, and the Directors shall also, if the payment of a dividend has been determined upon by them, as provided by this Law, thereupon declare the amount of dividend so determined upon. At each such annual meeting it shall be the duty of the shareholders to elect two Directors in the room of those who then retire by rotation under the provisions of this Law, and also to elect such one or more additional Directors as may be necessary to fill up any vacancy which may have taken place upon the Board of Directors during the preceding year, and also to elect one or two Auditors as may be required under the provisions of this Law. Such further and other business only shall be transacted, and such purpose or purposes only shall be carried out as shall have been particularly specified in the notice of such yearly general meeting.

Election of Directors and Auditors.

Audit.

45. Twice at the least in every year the accounts of The Natal Bank (Limited) shall be examined by an auditor or auditors, two of whom shall be elected by the Company at the Annual General Meeting held on the second Thursday in February in each and every year, and in the same manner as is provided for the election of Directors:

[Provided, however, that so long as the Government of the Colony of Natal continues to use The Natal Bank (Limited) for the deposit of its surplus funds, one of the said two auditors shall be appointed by the Governor in Council and one only chosen by the shareholders (A).] Law 43, 1888.

A Director or officer of the Company shall not be capable of being elected or appointed an auditor thereof. No Director or officer to be auditor.

An Auditor shall hold office until the appointment of his successor, and on quitting office shall be re-eligible.

If any casual vacancy occurs in the office of any auditor, the surviving auditor, if any, may act until the election or appointment of an auditor to fill such vacancy. But if there is no surviving auditor the Directors shall forthwith call a special general meeting for the purpose of supplying the vacancy or vacancies in the auditorship. Casual vacancy.

The auditors shall at all reasonable times have access to the cash, books, vouchers, securities, and accounts of the Bank, and any auditor may, in relation to such cash, books, vouchers, securities and accounts, examine the Directors, or any other officer of the Company: Provided that as to the branch banks and agencies it shall be sufficient if the auditors are allowed access to such copies of, and extracts from, the books and accounts of any such branch or agency as may have been transmitted to the Head Office of the Company at Pietermaritzburg. Facilities to auditors.

The auditors shall audit, balance, and check the statements and accounts, and shall make a report to the shareholders on the accounts examined by them, and on every balance-sheet laid before the Company in general meeting during their tenure of office, and in every such report, shall state whether in their opinion the balance-sheet referred to in the report is a full and fair balance-sheet properly drawn up, so as to exhibit a true and correct view of the state of the Company's affairs as shown by the books of the Company, and such statement of accounts duly audited, and such report shall be read before the Company at the Annual General Meeting held on the second Thursday in February in each year. Auditors' reports.

The remuneration of each auditor shall be a sum of not less than Fifty Pounds sterling per annum, and such remuneration may be fixed by the Annual General Meeting, and shall be paid by the Company. Remuneration of Auditors.

Every balance-sheet submitted to the annual or other meeting of the shareholders of this Bank shall be signed by the Auditor or Auditors, and by the Chairman for and on behalf of the Directors of the Bank, and by the General Manager. Balance Sheet, how signed.

46. All motions, questions, propositions and resolutions of the shareholders of this Bank at any general meeting, whether annual or special, shall be determined by a show of hands of the shareholders present at the time the show of hands is taken: Provided that it shall be lawful for any shareholders not being fewer than three in number, and holding in the aggregate not less than two hundred shares, to demand a ballot, when the votes shall be taken according to the number of votes each shareholder present or represented by proxy may, under the provisions in this Law contained, be entitled to give. And whatever resolution shall be carried or negatived by the largest show of hands, or by a majority of votes so taken as aforesaid, and certified in writing by scrutineers appointed to examine and report the votes so taken by the meeting, at which the resolution in question shall be decided on, shall be binding upon every shareholder and Director of this Bank, and the same matter or question shall not again be proposed or discussed at any such meeting at any time within a twelvemonth from the date of such decision unless upon the requisition of share- Voting at General Meeting.

Subject of a resolution not to be again discussed within a year except as provided.

(A) This proviso is repealed by Act 32, 1897, s. 11, post.

Law 43, 1888. holders of this Bank, representing one-fourth of the paid up capital funds thereof.

Declaration of result of vote.

47. At any general meeting, whether annual or special, unless a ballot is demanded under the provisions of this Law, a declaration by the Chairman that a resolution has been carried, or carried by a particular majority, or lost, or not carried by a particular majority, and an entry to that effect in the book of proceedings of the Bank shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

Notice of general or special general meeting.

48. Any general or special general meeting of this Bank, for the assembling of which provision has not been otherwise made, shall be called upon notice published by the Directors in at least two issues of the "NATAL GOVERNMENT GAZETTE," and at least one newspaper published in the Colony of Natal, before such meeting is to be held; and such notice shall specify the place, day, and hour of such meeting, and the particular nature of the business to be transacted thereat, or the purpose or purposes for which such meeting is called; and such business only shall be transacted, and such purpose or purposes only shall be carried out as shall have been particularly specified in the notice given thereof.

Place of meeting.

49. All general meetings shall be held at Pietermaritzburg; Provided, however, that it shall and may be lawful for the Directors of this Bank, when they shall deem it fit and expedient so to do, from time to time to appoint any special general meeting to be held elsewhere in this Colony, and at such places where this Bank may have established Branches or Agencies, and the purpose of such meeting may specially affect that particular locality.

Adjournment.

50. It shall and may be lawful for the proprietors, at any such general meeting, by a majority of votes, to adjourn the same to any future day, but not later than the same day in the ensuing week; and at such adjourned meeting to adjourn the same in manner aforesaid; and so on until all the business for which any such general meeting was originally called shall have been transacted.

Board of Directors.

51. The general management of the affairs and the control of this Bank shall be vested and reposed in, and the business thereof shall be transacted and carried on by, a Board of Directors not exceeding seven in number, of whom three shall form a quorum, and such Directors, and all future Directors of The Natal Bank (Limited) shall have the sole general management of the capital funds, estate, property, effects, affairs, and concerns of the Bank in all its branches and agencies, and shall transact the affairs thereof in manner by this Law provided.

Acts of Board during vacancy.

52. All acts which may be done at any meeting of the Directors during any vacancy in the Board of Directors shall be as valid and effectual as if the number of Directors was complete, and no vacancy had occurred in the direction: Provided that at every such meeting of Directors a quorum, i.e., three Directors, be present.

Retirement and re-election of Directors.

53. It shall be the duty of the General Manager to keep a current list of the Directors of this Bank, and upon the second Thursday in the month of February in each and every year the two Directors who are first named in such list shall go out of office and the names of their successors, when elected, shall be entered at the bottom of such current list of Directors: Provided that the retiring Directors shall remain in office until their successors shall have been appointed, and that any Director so going out of office shall be eligible for immediate re-election.

Election of Directors in place of retiring Directors.

54. At the general meeting of the proprietors of this Bank to be held on the second Thursday in February, in each and every year, the proprietors shall elect from among such of the shareholders as may

be qualified in manner herein provided two persons to be Directors in room of the retiring Directors. And to facilitate such election a list of the names of such shareholders as are eligible for election as Directors shall be made out from the register of all the proprietors of shares in the capital funds of this Bank, and shall be laid upon the table previous to the proceedings of such meeting being commenced. Law 43, 1888.

55. It shall not be lawful for any person to be elected as a Director who shall not possess "bona fide" in his own right an interest in The Natal Bank (Limited) of shares in the capital funds thereof, upon which the sum of Five Hundred Pounds sterling has been paid up. Qualification.

It shall not be lawful for any two persons carrying on business as co-partners in any firm to be on the direction at the same time, nor for any one person to be elected a Director who is the agent representing a Director or a firm, or any individual partner of a firm of which firm one of the partners is a Director, nor for any person to be elected a Director while he shall hold any office in this Bank. Partners, agents, &c., of Director not eligible as Directors.

No person, not being a retiring Director, shall, unless recommended by the Directors for election, be eligible for election to the office of Director at any general meeting, unless he or some other member intending to propose him has, at least seven clear days before the meeting, left at the Head Office of The Natal Bank (Limited) a notice in writing under his hand, signifying his candidature for the office or the intention of such member to propose him. Candidature for election.

56. If any person being a Director or Branch Director of this Bank shall enter into partnership with any other person being also a Director or Branch Director, the Board of Directors of this Bank sitting at Pietermaritzburg shall decide by lot which of the two such Directors or Branch Directors shall go out of office, and the Director or Branch Director whose retirement shall be fixed upon, shall immediately thereupon cease to be a Director or Branch Director: Provided always that it shall be competent for either of such Directors or Branch Directors to resign his appointment as such prior to any such decision by lot. Retirement of Director becoming partner of another Director.

57. Any Director of The Natal Bank (Limited) shall in any or either of the following cases become disqualified to act as, and shall thereupon "ipso facto" cease to be, a Director of the said Bank:— Disqualification of Director.

- (a) If he shall become a bankrupt or an insolvent, or shall suspend payment, or if his estate shall be sequestrated for the benefit of his creditors, or if he shall assign his estate, or if he shall compound with his creditors.
- (b) If he shall absent himself from the meetings of the Board of Directors, to which such Director shall have been appointed, for three consecutive months: Provided, however, that the Board of Directors may, by resolution, grant to any such Director, special leave of absence for any period not exceeding six months, and by such resolution may empower and appoint such Director during such absence to attend to and further the business and interests of the Bank: Provided that such special leave of absence shall only be granted to one Director at the same time.
- (c) If he shall cease to be the holder of the number of shares in the capital funds of the said Bank, necessary to qualify him to be a Director.
- (d) If he shall accept or hold any other office in the said Bank except that of Managing Director.
- (e) If he shall refuse to act upon or carry into effect any lawful resolution duly carried at a general meeting of share-

Law 43, 1888.

holders, or any rule, order, regulation, or bye-law of this Bank.

(f) If he shall be found lunatic, or if he become of unsound mind.

Disqualification not to invalidate proceedings of Board.

58. No resolution, act, or proceeding of the Board of Directors, otherwise legal and valid, shall be rendered illegal and invalid merely by the circumstance that any Director thereof has under any of the provisions of this Law become disqualified to act as such, but shall notwithstanding such disqualification have continued to act, and shall have united with other Directors in passing, performing, or taking any such resolution, act, or proceeding as aforesaid.

Suspension of Director by the Board.

59. In case the conduct of any Director shall be such that his continuance in office shall appear to the other Directors prejudicial or injurious to the interests of the Bank, then it shall be lawful for the other Directors, at a Board to be convened for that purpose, if the Directors present at such Board be unanimous in that behalf, but not otherwise, to suspend any such Director from his office. And in case of every such suspension the said Directors shall forthwith call a meeting of shareholders for the purpose of confirming or disallowing such suspension. Notice of the said meeting, and of the purpose for which it is called, shall, previously to the holding thereof, be published twice in two successive weeks in the "NATAL GOVERNMENT GAZETTE," and fourteen days' notice in writing of the date, place, and object of the said meeting shall be also given to such Director so suspended. And such suspension shall be capable of confirmation, or of disallowance and reversal, by a majority of the votes of the shareholders present or represented at such meeting; and such majority may thereupon remove such Director from his office.

Confirmation or reversal by shareholders.

Removal of a Director by meeting of shareholders.

60. In case the conduct of any Director shall at any time be such that his continuance in office shall appear to at least fifteen of the shareholders of this Bank entitled to vote, representing no less than one-tenth of the paid-up capital of this Bank, to be prejudicial to the interests of this Bank, and such shareholders shall give notice thereof in writing to the Board of Directors, the Directors may and they are hereby required to call forthwith a meeting of shareholders for the purpose of determining whether such Director shall remain in office. Notice of the said meeting, and of the purpose for which it is called, shall previously to the holding thereof be published twice, in two successive weeks, in the "NATAL GOVERNMENT GAZETTE," and fourteen days' notice in writing of the date, place, and object of the said meeting shall be also given to such Director. Such Director may be removed from his office by a majority of the votes of the shareholders present or represented at such meeting.

Mode of filling a vacancy in Directorship during term of office.

61. In the event of the death, resignation, removal, or disqualification of any one or more of the Directors during any current year of office, the remaining Directors, at their next convenient meeting, shall elect a Director or Directors from among the shareholders duly qualified to fill the office, to fill up such vacancy or vacancies until the next annual meeting of shareholders; and at the next annual meeting of shareholders an election shall take place, in manner and subject to the regulations herein provided for the annual election of Directors. And such Director or Directors so elected at the annual meeting to fill up such vacancy or vacancies shall continue in office until the expiration of the period for which the Director so dying, resigning, being removed, or becoming disqualified as aforesaid would otherwise have remained a Director. The office of each such Director so elected by the Directors to fill a vacancy shall be vacated if he is requested in writing prior to the holding of any such annual meeting of shareholders by all his co-Directors to resign.

62. Every Director of this Bank shall continue in office until another Director shall be appointed in his place, or until he shall become disqualified, resign, or be removed. Law 43, 1888.
Term of office.

63. At the first meeting of the Board of Directors, after the annual meeting of proprietors in every year, or at a special meeting of such Board, in case of a vacancy in the office of Chairman, by death, resignation, or otherwise, the Directors shall select one of their number to be the Chairman of the Board of Directors, and such Chairman shall, while such Director, continue to act as such Chairman, until after the annual election of Directors in the ensuing year. Election of
Chairman.

64. The Directors of this Bank shall meet for the transaction of business as often as they shall deem fit; at all meetings of the Board three Directors shall form a quorum; minutes of the proceedings of the Board of Directors shall be duly kept. The Chairman, and in his absence some other Director chosen by the Directors present, shall preside at all meetings of the Board of Directors, and the presiding Chairman shall in all cases be entitled to vote upon all questions, and in the event of there being an equality of votes to give a second or casting vote. Transaction of
business of the
Board.
Quorum.

65. In addition to the powers and authorities by this Law expressly conferred upon the Directors, they may exercise all such powers, and do all such acts and things as may be exercised or done by The Natal Bank (Limited); and are not hereby expressly directed or required to be exercised or done by the Bank in general meeting, but subject, nevertheless, to any regulations from time to time made by the Company in general meeting: Provided that no regulation shall invalidate any prior act of the Directors which would have been valid if such regulation had not been made. General powers
of Directors.

Regulations
made in general
meeting.

66. Without prejudice to the general powers conferred by this Law, it is hereby expressly declared that the Directors shall have the following powers, that is to say:— Other powers
conferred on
Directors.

Power to appoint, and at their discretion remove or suspend, and appoint others in place thereof, such managers, accountants, officers, clerks, agents and servants for permanent, temporary, or special services in transacting the affairs of the Bank as the said Directors may from time to time think fit, and to determine their duties and fix their salaries, remuneration or emoluments, and to require security in such instances and to such amount as they think fit for the faithful discharge of their duties. Appointment,
&c., of man-
agers and em-
ployees.

67. The Directors may appoint from among themselves two Managing Directors, to facilitate the conduct and management of the daily transactions of the Bank. And such offices shall be filled in such rotation or otherwise, and be held by the same individuals respectively for such periods as such Directors shall appoint. Such Managing Directors shall keep minutes of all their proceedings, and the powers and duties of such Managing Directors shall from time to time be defined and laid down by the Directors of this Bank. Managing
Directors.

Powers and
duties.

68. The Directors shall and may from time to time make such rules and bye-laws, orders, and regulations as to them shall seem just and expedient for the general management and government of the business of the Bank, and for the guidance of the Managing Directors and its salaried officers; and shall and may from time to time repeal, alter, or amend the same: Provided the same be not contrary to law, or repugnant to any provisions of this Law. Rules, by-laws,
&c.

69. The Directors from time to time may purchase land and build or purchase or take on lease a house or houses in any city, town, or place where this Bank has established or shall establish branches or agencies in which the business of the Bank shall be conducted. And Bank premises.

Law 43, 1888. the Directors may dispose of any such land, house, or houses, as they may have purchased or built, by public auction or private contract: Provided always, that no such land or houses shall be purchased and no such houses built so as to be in any manner instrumental for the purposes of trade or speculation (A).

Directors may fix rate and conditions of interest, &c.

70. The Directors from time to time may fix the rate of interest, commission, and other charges to be charged on discounting bills, notes, and other negotiable securities, and on the transaction of other banking business, and may allow interest after such rate and upon such conditions as they shall from time to time fix and determine upon any sum or sums of money which may be deposited in the said Bank.

Branch Banks or agencies.

71. The Directors from time to time may establish Branch Banks, or Bank Agencies, for the transaction of the business of The Natal Bank (Limited) in the United Kingdom, and in any part of South Africa, and in any place in the Colony of Natal or elsewhere, and also may continue any such Branch Bank or Agency already established, to be conducted either by Branch Directors, by Managers, by Agents, or by any other officers in such manner and subject to such rules and regulations as the said Directors may from time to time respectively fix and determine: Provided always, that the Directors may close again and discontinue any existing Branch or Agency, or any which may be established hereafter.

Management of branches and agencies.

72. The Directors may from time to time provide for the management of the affairs of this Bank at any of its branches or agencies, in such manner as they shall think fit, and the provisions contained in the following sections shall be without prejudice to the general powers conferred by this section.

Local boards or agencies.

73. The Directors from time to time, and at any time, may establish any local boards or agencies for managing any of the affairs of this Bank at any of its branches, and may appoint any persons to be members of such local board, or any managers or agents, and may fix their remuneration.

Delegation of authority to local agency or board.

74. The Directors from time to time, and at any time, may delegate to any person so appointed any of the powers, authorities, and discretions for the time being vested in the Directors, and may authorise the members for the time being of any such local board or any of them to fill up any vacancies therein, and to act notwithstanding vacancies, and any such appointment or delegation may be made on such terms and subject to such conditions as the Directors may think fit, and the Directors may at any time remove any person so appointed, and may annul or vary any such delegation.

Directors may appoint persons to hold power of attorney for certain purposes.

75. The Directors may at any time and from time to time by power of attorney, appoint any persons to be the attorneys of this bank, for such purposes and with such powers, authorities, and discretions (not exceeding those vested in or exercisable by the Directors under these presents), and for such period and subject to such conditions as the Directors may from time to time think fit, and any such appointment may (if the Directors think fit) be made in favour of the members of any local board established as aforesaid, or in favour of any company, or of the members, directors, nominees or managers of any company or firm. Any such delegates or attorneys as aforesaid may be authorised by the Directors to sub-delegate all or any of the powers, authorities and discretions for the time being vested in them.

Director may not vote when personally interested.

76. Any Director having a personal interest in any question under consideration at any meeting of the Board of Directors, shall retire from such meeting, and shall not be allowed to vote in the decision

(A) See Act 32, 1897, s. 12, post.

of such question, but the same shall be decided by the other Directors present: Provided they be sufficient to form a quorum, and provided that such question in which such Director shall be concerned shall stand over until there be a proper quorum, in case the other Directors then present shall not be a quorum. Law 43, 1888.

77. The Directors shall be paid out of the clear profits of the Bank by way of remuneration for their services, in each and every year, the sum of Two Thousand Pounds sterling: Provided, however, that the said sum does not exceed an amount equal to five per centum of the clear profits of the Bank for such year, and such sum shall be divided among the Directors in such proportions and manner as the Directors may determine. Remuneration of Directors.

78. The Directors may at any time call a special general meeting of the proprietors of this Bank, for such special purpose or purposes, and at such time and place as the said Directors shall deem fit and expedient. Calling special general meetings.

79. The said Directors shall be bound to call a special general meeting of proprietors for any special purpose or purposes, whenever they shall be required so to do by a requisition in writing, signed by not less than fifteen of the shareholders of this Bank entitled to vote, representing at least one-tenth part of the paid-up capital of the Bank, setting forth the purpose or purposes for which such meeting is required to be called: Provided that notice shall be given of the time and place at which, and the purpose or purposes for which any such special general meeting shall be called as aforesaid, whether it be on such requisition as aforesaid or otherwise. And whenever such special general meeting shall be required to be called, in pursuance of such requisition as aforesaid, the said Directors shall give such notice of such meeting within fourteen days after they shall have received such requisition as aforesaid. Special general meeting to be summoned on requisition of shareholders.

80. At all general meetings, whether annual or special, of the shareholders of this Bank, the Chairman for the time being of the Board of Directors, or in his absence one of the Directors present, elected by the shareholders, shall preside; and such Chairman or other Director so presiding shall, both on a show of hands and at a ballot, whenever the votes shall be equally divided, or whenever, in case of any election, two or more persons shall have an equality of votes, have a casting vote in addition to his own vote or votes as a shareholder in the decision of the question at issue. Conduct of business at general meetings.

81. In all matters submitted to the consideration of any general meeting of this Bank, whether special or yearly, the proprietors of shares in the Capital Funds of this Bank shall have votes in the following proportion, that is to say: Each proprietor possessed of not less than four shares one vote; each proprietor possessed of not less than twelve shares two votes; each proprietor possessed of not less than twenty-two shares three votes; each proprietor possessed of not less than fifty shares four votes; each proprietor possessed of not less than one hundred shares five votes; and for every one hundred shares over and above one hundred shares, one additional vote: Provided always that no proprietor shall be entitled to vote in respect of any share or shares until his name shall have been registered in the books of this Bank as a proprietor for a period of three months; and until he shall have paid all instalments due on any shares in respect of which he may claim to vote. Votes, proportion of to number of shares held by any person.

82. [Repealed by Act No. 32, 1897.]

83. Any person who shall be the holder of any shares in the capital funds of this Bank in his capacity as tutor, curator, or guardian of any minor, shall possess the same number of votes in respect of Votes by curators, guardians and tutors.

Law 43, 1888. such shares as such minor would have been entitled to if of full age. Provided that when two or more persons are joint tutors, curators, or guardians of any such minor, such one only as the other or others of them may appoint, and whose appointment shall have been previously signified in writing to the General Manager of the Bank, shall be entitled to attend and vote, or to vote by proxy, in respect of such shares at any annual or special general meeting of shareholders of this Bank.

“Directors,”
meaning of.

84. Wherever in any of the clauses of this Law a reference is made to the Directors of this Bank, or to the Directors for the time being, or to the Directors generally, the same shall be construed to refer to the Directors at Pietermaritzburg, and not to the Directors of any branch establishment or agency.

“Manager.”

Whenever in any of the clauses of this Law a reference is made to the Manager of this Bank, or to the Manager for the time being, or to the Manager generally, the same shall be construed to refer to the General Manager at the Head Office, and not to the Managers of any branch establishment or agency.

Reserve Fund.

85. The sum of Five Thousand Pounds sterling, or such further sum as the Directors shall from time to time determine and fix on, shall, as herein provided, be accumulated as the Reserve Fund of this Bank for every Twenty Thousand Pounds sterling of paid-up capital, and shall be carried to a separate account in the books of this Bank, and such Reserve Fund shall be invested in and upon any of the public stocks of, or funds, or Government securities, of the United Kingdom, or of India, or any other Colony or Dependency of the United Kingdom, or in the stock of the Bank of England, or in debentures or stock of the Metropolitan Board of Works, or in debentures or preferent stock of any British or guaranteed Indian Railway, or in debentures of the Corporations of Pietermaritzburg and Durban, or in debentures of any municipal corporation in the United Kingdom; and the Directors may from time to time vary or transpose such stock or funds into or for other of a like nature; and such Reserve Fund shall be the primary fund, to be from time to time resorted to, in order to meet and satisfy any extraordinary losses which may be sustained by the Bank, or any extraordinary costs, charges, damages, and demands to which this Bank may from time to time become liable. And the said Reserve Fund may be applied for the several purposes aforesaid by the Directors as they in their discretion shall think fit; and the said fund shall, on the expiration or other sooner determination of this Banking Company, belong to and be divided amongst the persons who shall be entitled to the capital funds of this Bank, in the same shares and proportions as they shall be entitled to such capital funds.

One-tenth of net profits to be set apart annually until Reserve amounts to one-fourth of paid-up capital.

86. The Directors shall, out of the net profits of the Bank, annually set apart and retain one-tenth part thereof, to be added to the Reserve Fund of the Bank in existence at the time of the taking effect of this Law, and so from year to year continue to set apart and retain one-tenth part of the net profits of the Bank, until by such additions the said Reserve Fund shall amount to a sum equivalent to one-fourth of the paid-up capital of the Bank. If, after such sum shall have been made up, it shall so happen that the Reserve Fund shall fall below the said sum equivalent to one-fourth of the paid-up capital of the Bank, then and so long as the Reserve Fund shall remain under that sum, one-tenth part of the net profits shall be annually set apart and added thereto, until the Reserve Fund shall again amount to a sum equivalent to one-fourth of the paid-up capital of the Bank (A).

(A) See Act 32, 1897, s. 17, post.

87. The Directors shall have the power before determining upon and declaring any dividend, to set aside out of the profits of the Bank such sums as they think proper as a fund for equalising dividends and for bonuses as the Directors shall in their discretion think conducive to the interests of the Bank, and to invest the several sums so set aside upon such investments as they may think fit, and from time to time to deal with and vary such investments and dispose of all or any part thereof for the benefit of the Bank, and to divide the said fund into such special funds for dividends, and for bonuses as they shall think fit.

Law 43, 1888.
Declaration of dividends, bonuses, &c.

88. The dividends to be paid to the shareholders of The Natal Bank (Limited), and the time or times when the same shall become payable, shall be determined by the Directors for the time being, as they in their judgment shall think fit, and the dividend which they shall have so determined upon shall be declared by them at the annual general meeting of shareholders: Provided that no dividend shall be declared or paid except out of the net profits accrued during the preceding year, or out of the fund by this Law created for equalising dividends.

Dividends, how and when declared and payable.

89. The Directors may at any time in the month of July in each year if they shall so think fit, and the accruing profits of the Company shall appear to them to warrant it, direct a sum of money in the nature of an interim dividend, and in anticipation of the annual dividend to be paid to the shareholders in the manner provided by this Law, as, and for a dividend for the six months ending the 30th day of June last preceding, and such sum shall on each such occasion be so calculated as to equalise as nearly as may be the sum which would be payable on each half year for dividends. And on payment of the next annual dividend declared the sum so paid in anticipation shall be deducted therefrom whether the then holders of the shares respectively shall be the persons who shall have received such sums or not.

Interim dividends.

90. In the event of any dividend being declared at any annual general meeting of shareholders out of any funds other than the net profits of the preceding year, or out of the fund by this Law created for equalising dividends, the Directors shall be personally liable for any dividend so declared.

Dividends paid from improper funds.

91. The dividends of this Bank shall be computed at so much per centum upon the capital actually paid up, and in respect of new shares which may be created any capital actually paid up thereon shall participate in any periodical dividend only in proportion to the time that such capital may have been actually paid up. Any dividends determined upon and declared by the Directors at any annual meeting of proprietors, shall be payable on such day or days after any such annual meeting as the Directors shall appoint. No dividend shall bear interest as against the Company.

Computation and apportionment of dividends.

92. Any dividend declared by the Directors shall accrue and be due and payable to proprietors of the Bank, registered at the date upon which any such dividend as aforesaid has been declared.

Dividends payable to registered proprietors.

93. The Directors appointed, and hereafter to be appointed, and all managers, agents, Bank clerks, auditors, and such other person or persons employed or to be employed in and about the affairs of the Bank shall, previously to entering on the duties of their respective offices or employments, make and sign a declaration of secrecy to be entered in a book or books to be kept for that purpose, pledging themselves respectively not to reveal or make known (except so as in the discharge of their respective duties may be inevitable and necessary) any of the matters, affairs, or concerns of the Bank which may come to the knowledge of them in the discharge of the duties of any of the offices or employments above mentioned or referred to, especially on

Declaration of secrecy by Directors, Managers, and employees.

Law 43, 1888. the subject of the transactions of this Bank, with its customers, and the state of the accounts with individuals unless they shall be required so to do in due course of Law.

Interpretation.

94. In the clauses of this Law referring to any General Meeting of proprietors, or to any requisition calling any Special General Meeting, the term "proprietor or proprietors of this Bank" shall be construed to include all shareholders, males and females. And where it shall not in the clauses of this Law be otherwise expressly provided, the phrases "majority of proprietors" and "majority of proprietors present" shall be construed and taken to mean a majority of votes which such proprietors shall under the provisions of this Law be entitled to give, either in their own right, or as the proxies of absent proprietors.

Requisition for general meeting.

95. The proprietors entitled to vote at an ordinary or special meeting held for that purpose (of which, and of the particular object whereof, notice shall be given by the Directors six weeks before the same shall be held, and which notice shall be inserted in the "GOVERNMENT GAZETTE" of the Colony of Natal, and such newspapers as the Directors may deem expedient, whenever so required by a requisition in writing setting forth the purpose for which the same is to be held, signed by not less than fifteen proprietors, representing at least one-tenth part of the subscribed capital of the Company, which notice shall be published within fourteen days after the same shall have been delivered to the Directors) may take into consideration the steps which shall be taken for the purpose of causing to be repealed, altered, added to, amended, or modified, any section of this Law: Provided, however, that not less than three-fourths of the proprietors entitled to vote, and present at such meeting, or represented by proxy thereat, shall concur in the same: And provided, also, that the Directors shall have the same right of calling a meeting as aforesaid, and for the purpose as aforesaid.

Alteration of this Law.

Indemnification of Directors.

96. The Directors and other the officers of The Natal Bank (Limited), and each and every of them, shall be indemnified and saved harmless out of the funds and property of the Bank, from and against all costs, charges, losses, damages, and expenses which they, or any of them, shall or may incur or sustain by reason or in consequence of any contract or engagement into which they may lawfully enter in behalf of the Bank, or any action, suit, or other proceeding relating to any contract or engagement, or in or about any matter or thing whatsoever, or in anywise relating to the affairs and business of the Bank: Provided always, that such losses, costs, charges, damages, and expenses shall not have been sustained or occasioned by his, their, or either of their wilful act, neglect, or default.

Losses which necessitate winding-up of Bank.

97. If at any time during the continuance of this Law The Natal Bank (Limited) shall have sustained actual damages and incurred losses to such an amount that the whole amount of the Reserve Fund then accumulated, and one-fourth part of the subscribed Capital of the Bank (as by this Law defined, and from time to time increased), shall be exhausted in paying off and satisfying said damages and losses, then the Board of Directors for the time being shall forthwith call a special general meeting of the shareholders, in manner hereinbefore provided, and shall submit to such meeting a full and general statement of the affairs and concerns of the said Bank, and thereupon the affairs of the said Bank shall be wound up, and the Bank, as soon as may be, dissolved.

Suspension of payment or breach of conditions necessitating dissolution.

98. In the event of The Natal Bank (Limited) suspending cash payments at any of the Bank's establishments for the space of sixty days, either consecutively or at intervals within any one year, or in the event of any other breach of the special conditions upon which the

Company is empowered to carry on the business of banking, or to issue and circulate promissory notes under this Law, then all powers, privileges, and authorities hereby given shall cease and determine, and the said Natal Bank (Limited) shall, as soon as may be, be dissolved. Law 43, 1888.

99. In case the Directors for the time being shall neglect or omit to call a Special General Meeting of the shareholders when the payment and satisfaction of the actual damages and losses sustained by The Natal Bank (Limited) shall have exhausted the whole amount of the Reserve Fund then accumulated and one-fourth of the then subscribed Capital of the Bank, then each of the said Directors shall be personally liable to the whole extent of his property for any losses incurred by the shareholders in excess of the proportion of one-fourth of the Capital Funds for the time being. Liability of Directors for neglect.

100. The Natal Bank (Limited) is hereby empowered to continue its banking operations in terms of this Law for a period of twenty-one years, to be computed from the date of this Law coming into effect, and no longer: Provided, however, that at the Annual General Meeting of the proprietors which shall be holden upon the second Thursday in the month of February, 1909, it shall be lawful for a majority of not less than three-fourths in number of the proprietors present, or represented by proxy, at such meeting, to determine that the necessary steps be taken for the renewal of this Law. This Law to have effect for 21 years.

101. Wherever the words "The Natal Bank," or "Natal Bank," are used in any Law, Ordinance, regulations, writing or document now in force in this Colony, those words shall, on the taking effect of this Law, be taken to mean the corporation under the designation of The Natal Bank (Limited) by this Law established and incorporated. May be renewed.

102. Nothing in this Law contained shall be deemed to affect or apply to any right, title, or interest of Her Majesty, Her Heirs, or Successors, or of any body or bodies politic or corporate, or of any person or persons other than and except such bodies politic or corporate and persons as are mentioned in this Law, and those claiming by, from, or under them respectively. "The Natal Bank," "Natal Bank."

103. This Law may be cited for all purposes as "The Natal Bank (Limited) Law, 1888." Savings.

104. This Law shall be taken and deemed to be a public Law, and shall be judicially taken notice of as such by all Courts of Law in this Colony without being specially pleaded. Short title.

105. This Law shall not come into operation unless, and until, the Officer Administering the Government notifies, by Proclamation, that it is Her Majesty's pleasure not to disallow the same; and thereafter it shall come into operation upon such day as the Officer Administering the Government shall notify by the same or any other Proclamation (A). Public Law.

Law No. 15, 1889.

"To amend 'The Natal Bank (Limited) Law, 1888.'"

[23rd July, 1889.]

WHEREAS it is expedient to expunge certain words occurring in Section Six of "The Natal Bank (Limited) Law, 1888."

BE IT THEREFORE ENACTED by the Administrator of the Government of the Colony of Natal with the advice and consent of the Legislative Council thereof, as follows:—

(A) Took effect July 1, 1889. See Pn. in G.G. June 29, 1889.

Law 15, 1889.

Amendment of
sec. 6, Law 43,
1888.

1. In Section Six of "The Natal Bank Limited Law, 1888," the words "and with such rights and privileges annexed thereto," in the line six of said Section occurring shall be and the same are hereby expunged.

This Law and
Law 43, 1888, to
be read as one.

2. This Law shall be read and construed as one with "The Natal Bank (Limited) Law, 1888."

Act No. 32, 1897.

"To amend 'The Natal Bank (Limited) Law, 1888.'"

[29th May, 1897.]

WHEREAS it is desirable to amend "The Natal Bank (Limited) Law, 1888."

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:—

Person in whose
name shares
stand registered
deemed to be
proprietor.

1. The person in whose name any share shall stand in the Register of Proprietors of shares, shall to all intents and purposes be deemed at law and in equity the absolute and beneficial proprietor of such share, and The Natal Bank (Limited) shall not be bound or affected by any notice of any equitable claim thereto or charge thereon.

Transfer of
shares.

2. Notwithstanding the provisions of Section 17 of "The Natal Bank (Limited) Law, 1888," the Directors may, instead of cancelling a transferor's certificate and issuing a fresh certificate to a transferee, endorse upon the certificate of the transferor the fact of the transfer of the shares represented by such certificate, and re-issue the certificate so endorsed to the transferee. The endorsement shall be in such form as may be approved of by the Directors. Where a transferor only transfers a portion of the shares included in one certificate, the Directors may endorse his certificate with the fact of such transfer, return such endorsed certificate to him, and issue a new certificate to the transferee.

Amendment of
sec. 17, Law 43,
1888.

3. The following words shall be added to Section 17 of The Natal Bank (Limited) Law, 1888: "and for such further time not exceeding in the whole fourteen days immediately following the thirtieth day of June in each year."

Liability of
joint holders for
payment of
calls.

4. The joint holders of a share shall be severally as well as jointly liable for the payment of all instalments and calls due in respect of such share.

On death of one
of joint propri-
etors shares to
be sold or dis-
posed of.

5. In the event of the death of any person or persons registered with one or more other persons as the registered proprietors of any share or shares in the Capital Funds of the Natal Bank (Limited), the Executor or Administrator of such deceased proprietor, and the surviving proprietor or proprietors shall sell, dispose of, or transfer the said shares so registered in the name of the deceased and of one or more other persons within twelve months from the death of any such proprietor, and in the event of the death of two or more proprietors from the date of the death of the last-dying of such proprietors, subject to the regulations and conditions in force as to the transfer of shares; and no transfer thereof shall be valid unless approved by the Directors. And in default of such sale, disposal, or transfer, the Directors shall have and exercise such powers of forfeiture and cancellation, and creation of new shares, and their sale, and in all other respects as provided in Section 18 of "The Natal Bank (Limited) Law, 1888."

6. If the sum payable in respect of any call be not paid on or before the day appointed for payment thereof, the proprietor for the time being of the share, in respect of which the call shall have been made, shall pay interest on the same at the rate of six per centum per annum from the day appointed for payment thereof to the time of actual payment, or at such other lesser rate as the Directors may determine: Provided that nothing herein contained shall prejudice the provisions of Section 12 of The Natal Bank (Limited) Law, 1888, or otherwise.

Act 32, 1897.
Interest payable on overdue instalments.

7. In Section 18 of "The Natal Bank (Limited) Law, 1888," line fourteen, the word "herein" shall be substituted for the word "hereinafter" there inserted. And in line nineteen of the said Section 18, the words "or at any time thereafter" shall be inserted and read after the words "twelve months" occurring in the said line and Section.

Amendment of sec. 18, Law 43, 1888.

8. The business of the Natal Bank (Limited) shall, in addition to the several heads specified in Section 30 of "The Natal Bank (Limited) Law, 1888," also include the acting as Agents for Joint Stock or other Banks, and private individuals, or other persons in Great Britain or Ireland, or in foreign parts or elsewhere, in ordering the purchase or sale of stocks, funds, or securities, and in receiving dividends, interest, pensions, pay, rents, or other income, and in paying or honouring drafts, cheques, bills, or notes, and in doing and performing any other acts of agency usually done or performed by bankers.

Business of the Natal Bank.

9. The Directors may for the purpose of more conveniently carrying on the business of the Natal Bank (Limited) from time to time cause any of the stocks, shares, securities, or other property belonging, or entrusted to the Bank, or in which they may have any interest, to be vested in, or transferred into the names of such two or more of themselves, or of such other persons, not being less than two, as they may from time to time by resolution appoint, and may from time to time in like manner discharge anyone so appointed and appoint some other person in his place. All persons appointed under the provisions of this clause shall hold all stocks, shares, securities, and other property that may be vested in them or transferred into their names as aforesaid, upon trust for the Natal Bank (Limited), and shall execute and do all such assurances, transfers, deeds, and things in relation thereto as the Directors may from time to time direct.

Transfer of stocks, shares, &c., into names of two or more Directors upon trust.

10. Section 39 of "The Natal Bank (Limited) Law, 1888," shall be, and the same is hereby repealed.

Repeal.

11. The proviso occurring in the first paragraph of Section 45 of "The Natal Bank (Limited) Law, 1888," shall be, and the same is, hereby repealed.

Repeal.

12. The Directors, anything to the contrary contained in Section 69 of the Natal Bank (Limited) Law, 1888, notwithstanding, may allow such part of any houses or other premises which shall be purchased, built, rented, or taken as provided in "The Natal Bank (Limited) Law, 1888," as shall not be wanted or required for transacting therein the business of the Bank, to be used, occupied, and enjoyed as offices or otherwise as the Directors shall think fit upon payment of rent for the same, and for such period and on such terms as the Directors shall order or direct.

Directors may let premises not required for business of the Bank.

13. Section 82 of "The Natal Bank (Limited) Law, 1888," shall be, and the same is hereby repealed, and the following provisions shall be substituted therefor:—

Repeal.

Any shareholder absent from any meeting of shareholders may appoint any shareholder to vote for him by proxy: Provided always that no proprietor shall give more than forty votes at one time, whether

Act 32, 1897. for himself by proxy or otherwise; and such proxy shall not require to be drawn up in any particular form but may be by simple letter of instruction: And provided also that every authority to vote by proxy shall specify the particular meeting at which it is intended such authority shall be used: And provided further that any person (not being a proprietor) duly authorised by power of attorney from a proprietor may on behalf of his principal grant any such proxy as is by this section provided for. No person shall be appointed a proxy who is not a proprietor and qualified to vote. The instrument appointing a proxy and the power of attorney, if any, under which it is signed shall be deposited at the Head Office of the Natal Bank (Limited) in Pietermaritzburg, not less than twenty-four hours before the time for holding the meeting, or adjourned meeting, as the case may be, at which the person named in such instrument proposes to vote. There shall be inserted in any and every notice convening any meeting of shareholders full information as to the provisions of this section as to the depositing of proxies and powers of attorney.

Directors may grant retiring allowances to officers;

14. The Directors are hereby authorised and empowered to grant retiring allowances to managers, accountants, officers and clerks of long service in the Bank upon such terms and conditions and according to such scale as the Directors shall deem reasonable and proper.

And for that purpose to create a fund.

And for the better giving effect to this provision the Directors are entitled to set aside and create a fund, and from time to time to invest the same and vary the investments thereof, and to add to such fund and to deal with such fund and any accretions thereto as to such Directors shall seem meet. A sum of money at the present time set aside for the purposes of a pension fund shall form a portion of the fund to be by this section created, and be treated accordingly.

Staff Guarantee Fund.

15. The Directors are hereby authorised and empowered to contribute towards the establishment of a Staff Guarantee Fund for the guarantee of the fidelity of the officials and employees of the Natal Bank (Limited), and to make such conditions as to its establishment, management, and use as to such Directors may seem desirable and proper.

Dividends how paid.

16. Unless otherwise directed any dividend may be paid by cheque or warrant sent through the post to the registered address of the proprietor entitled, or in the case of joint holders to that one whose name stands first on the register in respect of the joint holding, and every cheque or warrant so sent shall be made payable to the order of the person to whom it is sent.

Increase of Reserve Fund.

17. None of the provisions in Section 86 of "The Natal Bank (Limited) Law, 1888," shall be held to debar the Directors from increasing the Reserve Fund of the Bank to a sum in excess of one-fourth of the paid-up capital of the Bank, by annual amounts not less than one-tenth part of the net profits of the Bank, and the said Directors are hereby empowered in their discretion to increase such Reserve Fund to such sum as they shall deem most advantageous for the Bank.

Construction of Acts.

18. This Act and "The Natal Bank (Limited) Law, 1888," No. 43, 1888, and the Law "To amend the Natal Bank (Limited) Law, 1888," No. 15, 1889, shall be read and construed together as one Act, and may be cited and known as "The Natal Bank (Limited) Laws, 1888 to 1897."

Commencement

19. This Act shall not come into operation unless and until the Governor notifies by Proclamation in the "NATAL GOVERNMENT GAZETTE" that it is Her Majesty's pleasure not to disallow the same;

and thereafter it shall come into operation upon such day as the Act 32, 1897, Governor shall notify by the same or any other Proclamation (A).

NATAL GOVERNMENT RAILWAYS.

[See "RAILWAYS."]

(A) Took effect February 15, 1898. See Pn. in G.G. of that date.

NATAL LAND & COLONIZATION CO. (LD.)

NATAL LAND & COLONIZATION CO. (LD.)

Private Law, 1862.

“To enable the Natal Land and Colonization Company (Limited) to purchase, and hold, and transfer lands and immovable property in Natal.”

[28th March, 1862.]

WHEREAS a Joint Stock Company was, on the fourth day of December, one thousand eight hundred and sixty, incorporated in England according to the provisions of the statute passed in the Imperial Parliament of Great Britain and Ireland in the nineteenth and twentieth years of the reign of her present Majesty, and entitled the “Joint Stock Companies’ Act, 1856,” under the style or title of “The Natal Land and Colonization Company” (Limited), for the purpose of, amongst other things, purchasing, holding, letting, selling, granting, alienating, exchanging, or otherwise dealing with immovable property in the Colony of Natal:

AND WHEREAS, the said Company is by the said Joint Stock Companies’ Act, 1856, empowered to hold lands. And it is necessary, for the purpose of enabling the said Company with facility to carry out its objects, that the said Company should be empowered to purchase, hold, transfer, and otherwise deal with immovable property in the Colony of Natal in the corporate name of the said Company:

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, by and with the advice and consent of the Legislative Council thereof, as follows; that is to say:

Seal.

1. That the said Natal Land and Colonization Company (Limited) shall have and use in Natal a common seal, with the name of the Company inscribed thereon; and shall be and they are hereby empowered and authorised in the name of the Company, to purchase, take, acquire, and hold to themselves and their successors and assigns, in fee simple, quit-rent, or otherwise, immovable property of any nature, tenure, or kind whatsoever in the Colony of Natal; and to sell, dispose of, alienate, transfer, grant, mortgage, charge, exchange, or lease, or otherwise deal with all or any part of such immovable property in the said Colony for any estate or interest therein, from time to time and in such manner as the Directors of said Company may think fit: Provided always, that all acts, deeds of transfer, mortgage and other bonds, proper for registration, shall be passed by the manager for the time being of said Company in Natal when duly authorised thereto by the Directors of the Company under the said corporate seal of the Company, or by his attorney duly authorised in that behalf: And further, all contracts, leases, and other acts and documents made and entered into by the Directors of said Company, and not proper for registration, shall, when authorised in like manner under the corporate seal of the said Company, be entered into, done, and performed by the manager of said Company for the time being in Natal, or his duly authorised attorney.

General powers of the Company

How to sue, and be sued.

2. The said Company shall sue and be sued by its corporate name in respect of any claim by or upon the Company upon or by any person, whether a member of the Company or not, so long as any such claim shall remain unsatisfied; and services of any notice or process whatsoever on the manager for the time being of the said Company resident

at Natal, or at the office of the said Company in Natal, shall be deemed and taken to be good and sufficient service of such notice and process on the said Company. Private Law,
1862.

3. This Law shall be taken to be a Public Law, and shall be noticed as such in all Judicial Courts in this Colony; and shall commence and take effect from and after the publication thereof in the "GOVERNMENT GAZETTE" of this Colony (A). Commencement

(A) April 1st, 1862.

NATAL SHIPPING COMPANY (LD.)

NATAL SHIPPING COMPANY (LD.)

Law No. 20, 1883 (A).

“To enable the Natal Shipping Company, Limited, to purchase, accept of, hold, transfer, exchange, mortgage, or lease, or otherwise deal with lands and other immovable property in the Colony of Natal, and to do all such other things as may be incidental to the objects of the Company and to secure to the shareholders of the said Company resident in or possessing property in Natal, the same privileges and immunities as if they were resident in the United Kingdom of Great Britain and Ireland, and had their property situated there.”

[12th November, 1883.]

NATAL TELEPHONE COMPANY (LD.)

[See “DURBAN CORPORATION.”]

(A) The Natal Shipping Company has been liquidated.

NATIVES (IN GENERAL).

[See "ARMS, AMMUNITION, &c.," "CRIMINAL LAW"; "INTOXICATING LIQUORS"; "LABOUR TOUTS"; "MARRIAGE (NATIVES)"; "MASTER AND (NATIVE) SERVANTS"; "NATIVE LAW"; "REGISTRATION (SERVANTS)"; "WILLS (NATIVES)," and "VACCINATION."]

Ordinance No. 2, 1855 (A).

"Ordinance to prevent unlicensed Squatting, and to regulate the occupation of Land by the Natives."

[16th February, 1855.]

WHEREAS the practice adopted by natives of this District, of squatting, without license, on Crown lands, not within native locations, and on lands belonging to private persons, has been carried on to such an extent as seriously to annoy and injure the agricultural population, and to endanger the peace and security of the District: And whereas the said practice is, at the same time, injurious to the true interests of the natives themselves, by fostering a desultory mode of culture of the soil, opposed to their application to civilized agriculture, and to regular industry: And whereas, under Her Majesty's Order in Council of 19th June, 1850, ratifying and confirming the Ordinance No. 3, 1849, it is provided, that it shall be lawful for the legislative authority, if it shall see fit, to repeal, alter, or amend, the said Ordinance; and also any of the provisions of the 28th article of the royal instructions of the 8th March, 1848, whereby, subject to certain restrictions therein contained, the native laws, customs, and usages, in force in this District, are recognised and retained:

And whereas it is necessary to make provision for checking the said practice and to regulate the occupation of land by natives:

BE IT THEREFORE ENACTED AND DECLARED by the Lieutenant Governor of Natal, by and with the advice and consent of the Legislative Council thereof, in pursuance of the special authority given to them as aforesaid, and the general authority vested in the said Council, by the Letters Patent of 8th of March, 1848, as follows:—

1. It shall be lawful for the Resident Magistrates of the several counties or divisions, and they are hereby required, to cause all natives to be removed from Crown land, within their respective counties or divisions, which are not within any native locations.

Natives to be removed from Crown Lands not within locations.

2. Any native who shall, without license or permission, hereafter erect any hut, or building of any kind, or shall make any garden on any Crown land, not being within a native location, or on any land belonging to any private person, shall, in respect of every such hut, building, or garden, forfeit and pay a sum not exceeding one pound, or be imprisoned, with hard labour, for the term of three months.

Penalty for unlicensed squatting.

3. If the owner of any land, his representative or mandatory, shall complain to the Magistrate of the county or division in which such land is situated, that any native is unlawfully residing on the same, then, in case the said native had originally received no permission to reside on such land, the said Resident Magistrate shall cause him to be instantly removed therefrom; and in case the said native shall have

Natives unlawfully residing on private property may be removed by Magistrate.

(A) See Law 41, 1884, s. 7, post.

Ord. 2, 1855. resided on the land, under a lease, or other agreement, which has expired, or become void, through any act or omission of the said native, the said Resident Magistrate shall, after giving the said native due time to collect and gather in the crops then growing on the land (A), cause him to be removed therefrom.

Natives may be removed without action of ejectment.

4. In all cases in which any Resident Magistrate has authority to remove natives from land, under this Ordinance, no action of ejectment shall be necessary, but it shall be lawful for the Magistrate to cause the natives to be summarily removed, and to cause their huts, or other buildings, to be pulled down.

Natives not to reside on unoccupied land without permission.

5. No natives shall reside on land belonging to any person who shall not personally, or by his mandatory or representative, occupy the same, unless with the written permission of the Lieutenant Governor, or the Colonial Secretary, the Government Secretary for Native Affairs, or the Resident Magistrate, and under such regulations as may be laid down, to ensure the safety of neighbouring inhabitants, and the proper control of such natives; and any natives residing on land not in accordance with this provision, shall be removed after one month's previous notice: Provided, that such mandatory, or representative, shall not be a native, unless he shall be specially approved by the Resident Magistrate of the county or division, as a fit and proper person to act in such capacity.

Owners, &c., of land to send to Magistrate returns of Kaffirs where more than three native families reside.

6. No owner or occupier of land shall permit more than three native families to reside on his land, unless he, or his mandatory or representative, shall send in to the Resident Magistrate of his county or division, a return, in the month of January in every year, as nearly as may be, in form in the Schedule hereto annexed (marked A), showing the number of native men, together with their women and children, residing on the land, the number of their huts or dwelling houses, and also the nature of any agreement he has with them; and any person who shall omit to send in such return, shall, for every such omission, forfeit and pay any sum not less than one pound or more than five pounds, and shall be held responsible for any trespass or damage committed by such natives, or their cattle, on adjoining lands.

Penalty.

7. [Repealed by Act No. 49, 1898.]

Form of notice to be served on natives.

8. Every notice to be served on any native under this Ordinance, shall be in writing, and, as nearly as practicable, in the form in the schedule hereto annexed (marked B), but it shall be sufficient to serve only one such notice on all the people of any kraal, by delivering a copy to any adult male inhabitant thereof, and informing him of the tenor of such notice.

Form of Magistrate's order for removal of natives.

9. Every order given by a Resident Magistrate for the removal of any natives under this Ordinance, shall be by warrant, as nearly as practicable in the form in the schedule hereto annexed (marked C), and such warrant may include any number of natives whom it is intended to remove.

Penalty, how recoverable.

10. Every penalty imposed by this Ordinance, on any white person, shall be recoverable in the Court of the Resident Magistrate of the county or division in which such person resides, and shall be paid into the public treasury, for the use of the Government of the District.

11. [Repealed by Act No. 39, 1896.]

Commencement

12. This Ordinance shall commence and take effect on the first day of August next.

(A) If the native plants crops after notice to quit, he cannot claim to gather them (*Sigonswana v. Tar*, 5 N.L.R. 135).

SCHEDULE A.

Return of natives living on the farm, called situated at _____, occupied by A. B., the owner (or by C. D., the mandatory or representative of A. B.), as the case may be.

Ord. 2, 1855.
Schedules.

Name of Heads of Families.	Number of Women.	Number of Children.	No. of Huts.	Nature of Agreement.

SCHEDULE B.

I.—Summons.

A. B., and other persons living in the same kraal, on the farm, called _____, are hereby summoned to appear before the Resident Magistrate, at _____ of _____, on the _____, to answer a complaint made against them by _____

(Signed)

C. D.,
Magistrate's Clerk.

II.—Notice.

A. B., and other persons living in the same kraal, on the farm called _____, are hereby ordered to remove therefrom on or before _____, or forthwith (as the case may be).

SCHEDULE C.

Warrant.

To all Field Cornets, Constables, and other officers of the Law.

Whereas, it has been shown to me that the following persons, namely, A. B. C., &c., with their families, are unlawfully living on certain land, situate at or near _____, called _____, belonging to D.

I do therefore command you to remove the said persons from the said land, and, if necessary, to pull down and destroy any hut, kraal, or other buildings on the lands occupied by them.

Resident Magistrate.

Ordinance No. 4, 1855.

" Ordinance to prevent Natives being brought into this District."

[20th March, 1855.]

WHEREAS it is expedient to make provision for preventing persons from encouraging or inducing Kafirs, the subjects of native chiefs, residing beyond the boundaries of this District, to come into the District, to the great danger of disturbing the peace and amity existing between the said native chiefs and the Government:

Ord. 4, 1855.

BE IT THEREFORE ENACTED by the Acting Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

Prohibition of encouragement to natives to enter District.

No person to bring native into District without consent.

Prohibition as to property of natives.

Penalty for contravention.

Prosecutions.

Application of fines.

Commencement

1. No person shall, by any means whatever, directly or indirectly, induce or encourage any native, the subject of any such chief, or residing within the territory of such chief, to come into this District.

2. No person shall bring, or cause or permit to be brought, any native, the subject of such chief, into this District, without the consent in writing of the Lieutenant Governor.

3. No person shall bring, or cause or permit to be brought into this District, any cattle, sheep, or goat, the property of any native, the subject of any such native chief.

4. Every person who shall be convicted of contravening the provisions of this Ordinance, shall be fined any sum not exceeding fifty pounds, or less than five pounds, and in default of payment, shall be imprisoned, with or without hard labour, for any period not exceeding twelve months.

5. Every contravention of this Ordinance shall be prosecuted and tried in the Court of the Resident Magistrate, of any county or division in which the party charged shall be found, or of that through which such party may have passed.

6. The amount of every fine recovered under this Ordinance shall be applied in such manner as the Lieutenant Governor may in each case direct.

7. This Ordinance shall commence and take effect from and after the publication thereof in the "GOVERNMENT GAZETTE" (A).

Law No. 41, 1884.

"To provide for the Collection of Rent from Native Squatters or Occupiers of Crown Lands."

[8th November, 1884.]

WHEREAS a large number of Natives from adjoining Countries, as well as Natives belonging to this Colony, have been allowed to squat upon or occupy the Crown Lands of the Colony and to cultivate the said Lands free from any limit, also to live upon and graze an unlimited number of cattle, horses, sheep, and goats, free from any charge as rent for the free use and enjoyment of the said Lands:

AND WHEREAS such squatting or occupation is contrary to Law and the best interests of the Colony as well as of the Natives themselves, and it is also manifestly unjust that the Crown Lands should be exhausted by squatters or occupiers well able to pay a fair and reasonable rent:

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

Notice to Native Squatters on Crown Lands of rent payable, how to be given.

1. The Governor shall, immediately after the coming into force of this Law, direct that each Resident Magistrate shall give notice to all Native Squatters on, or in the occupation of Crown Lands within their respective Magisterial Divisions, that a Rent of One Pound per Hut per annum will be charged for the use and occupation of such lands; and that such rent shall be due and payable on the First Day of July, 1886, and on the same day in each and every year thereafter,

(A) March 27, 1855.

and shall be paid to such officer or officers as the Governor may nominate and appoint, and at such place as the Governor may direct: Provided always, that the Governor shall have the power either to increase or reduce such rent in all cases where it shall appear that One Pound per Hut is either too little or too much to meet the equities of the case. Law 41, 1884.

2. As soon as may be after the notice required in the preceding Section shall have been given, each Resident Magistrate shall direct that the Field Cornet, or some other officer duly appointed by the Governor, shall furnish him with a list of all Native Squatters or Occupiers of Crown Lands in his Ward, stating the number of huts belonging to each Native occupying the said land. List of Native Squatters to be furnished to Magistrate.

3. After the coming into effect of this Law, no person shall be allowed to come on to and squat on or occupy any Crown Lands without permission of the Governor, and any person so trespassing shall be liable to a fine of not less than One Pound, or, in default of payment, to imprisonment, with or without hard labour, for any period not exceeding Three Months. Squatting on Crown Lands prohibited without permission of Governor.

4. Any Native Squatter or Occupier may be removed from any Crown Lands by giving such Squatter or Occupier six months notice in writing, such notice to be given by the Resident Magistrate in the month of January in any year after the passing of this Law. Native Squatters may be removed on six months' notice.

5. In all cases in which any Resident Magistrate may have given such notice as required in the preceding Section of this Law, and such notice shall be disregarded by any Native Squatter or Occupier, no action for ejection shall be necessary, but it shall be lawful for the Magistrate to cause the Native Squatter or Occupier to be summarily removed. On expiration of notice, Squatter may be summarily removed.

6. The Governor in Council may make rules and regulations for the purposes of this Law, for the occupation of Crown Lands and for the collection of rents, and from time to time alter and amend the same, and may fix the remuneration to be paid to each Field Cornet or other officer for his services rendered under this Law. Governor may make regulations.

7. Ordinance No. 2, 1855, in so far as it may be in conflict with this Law, shall be and the same is hereby repealed. Ord. 2, 1855, repealed where in conflict herewith.

8. This Law may be cited for all purposes as the Squatters Rent Law of 1884. Short title.

9. This Law shall not come into operation unless and until the Officer administering the Government notifies by Proclamation that it is Her Majesty's pleasure not to disallow the same, and thereafter it shall come into operation upon such day as the Officer administering the Government shall notify by the same or any other Proclamation (A). Commencement

Law No. 48, 1884.

"To provide for the better regulation of the passing and re-passing of Natives between Natal and the neighbouring States and Territories."

[8th November, 1884.]

WHEREAS it is expedient to make provision for regulating the entry of Natives of the neighbouring States and Territories into the Colony of Natal, and the return of the same, and for the departure from Natal or return thereto of Natives residing, or who had been resident in the Colony:

(A) Proclamation of non-disallowance in G.G., February 24, 1885.

Law 48, 1884.

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

Governor in Council may make Rules regulating entry of Natives into Colony, &c.

1. The Governor in Council may from time to time and at all times frame, make, and issue such Rules and Regulations as may be considered necessary for the purpose of regulating and making provision for the entry of Natives into this Colony, their sojourn therein, and their return therefrom, and to amend, alter, vary, or annul any such Rules and Regulations (A).

Also for regulating departure from or return to Natal of Natives resident in Colony.

2. It shall also be lawful for the Governor in Council from time to time and at all times to frame, make, and issue such Rules and Regulations as may be considered necessary for the purpose of regulating and making provision for the departure beyond the boundaries of Natal, or return thereto, of Natives residing or who had been resident in the Colony.

Person harbouring or aiding native in violation hereof to be deemed guilty of a contravention.

3. Any person who shall harbour any Native contravening any of the Rules or Regulations made under this Law, or who shall in any way aid or abet any Native in violation of this Law or the Rules and Regulations made hereunder, shall be deemed guilty of a contravention of this Law and the Rules and Regulations issued in virtue thereof.

Penalty for contravention of Rules. Moiety may be awarded to informer.

4. Any person or persons knowingly contravening any of the Rules made under this Law shall be liable to pay a fine not exceeding £10, or in default of payment thereof to imprisonment for a term not exceeding Three Months, with or without hard labour, or both: Provided that one-half of the penalty imposed may be awarded by the Court before which the case is tried to the informer through whose information such person or persons shall have been convicted.

Contraventions how prosecuted.

5. All contraventions of the Rules or Regulations made under this Law shall be prosecuted before the Court of the Resident Magistrate for the County, Division, or District in which such offence shall have been committed, in the case of Europeans, and before the Court of the European Administrator of Native Law in the case of Natives.

Regulations under Ord. 3, 1849, not affected hereby.

6. Nothing in this Law contained shall affect or be deemed to affect, or in anywise repeal, the regulations made in terms of Ordinance 3, 1849, regarding refugees coming into the Colony of Natal.

Extent and operation of Law.

7. This Law shall be in force and extend only to such Divisions, Counties, or Districts, as the Governor, by and with the advice of his Executive Council shall, by Proclamation, declare to be under the operation of this Law, and for such period only as from time to time may be deemed expedient and necessary.

Commencement.

8. This Law shall not come into operation unless and until the Officer administering the Government notifies by Proclamation that it is Her Majesty's pleasure not to disallow the same, and thereafter it shall come into operation upon such day as the Officer administering the Government shall notify by the same or any other Proclamation (B).

Law No. 52, 1887.

“To impose certain Fees on Passes issued under the Law No. 48, 1884.”

[21st November, 1887.]

WHEREAS it is expedient that the Revenue of the Colony should be increased by the imposition of certain fees:

(A) See Law 52, 1887, post.

(B) Proclamation of non-disallowance in G. G., February 24, 1885.

BE IT THEREFORE ENACTED by the Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:— Law 52, 1887.

1. There shall become due and payable in respect of each pass issued under the Law No. 48, 1884, or by rules and regulations made thereunder, by the person to whom the said pass may be issued, a Fee of One Shilling. Fee payable for pass issued under Law 48, 1884.

2. This Law shall commence and take effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (A). Commencement

Act No. 25, 1895.

"To Regulate the use of Mission Reserves."

[8th August, 1895.]

WHEREAS it is expedient to regulate the use of Mission Reserves:

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:—

1. The Governor in Council may from time to time make, alter, and amend rules to regulate the use and occupation of lands already or hereafter to be set apart as Mission Reserves. Rules.

2. The rules to be passed hereunder may provide for:—

- (a) The registration of all the people in the Reserve.
 - (b) A yearly contribution from each Native male adult towards the cost and expenses of carrying out this Act, not exceeding One Pound Sterling per head.
 - (c) The admission of Natives to the Reserve and the removal of Natives therefrom (b).
 - (d) The sale and hire of land, and the restrictions to be placed on alienation, and the conditions attaching to bequest or devolution.
 - (e) The appropriation of land for purposes of cultivation, pasture, and commonage.
 - (f) All matters relating to roads, by-roads, fences, pounds, water-courses, woods, and streams, and the use of water, wood, clay, and stone.
 - (g) The charges to be made for the agistment of cattle.
 - (h) The sub-division of any Reserve.
 - (j) The preservation of health and observance of decency.
 - (k) The maintenance of order, and for any other matter or thing necessary to be done or to be prohibited in the interests of the people living in the Reserve.
 - (l) The education of Children living on the Reserve.
- Matters which may be dealt with by rules.

3. Any person who may contravene a rule passed under this Act shall be liable to a fine not exceeding Ten Pounds, and to imprisonment with or without hard labour for a term not exceeding six months. Punishments for contravening rules.

4. The Secretary for Native Affairs shall cease to be a trustee under the deeds of grant of lands set apart as Mission Reserves. Secretary for Native Affairs not to be a Trustee.

5. The Governor in Council may from time to time appoint and remove trustees of lands set apart as Mission Reserves. Appointment of Trustees.

6. The Natal Native Trust may be appointed as Trustees under the Grants of Mission Reserve Lands. Natal Native Trust.

(A) G. G., November 22, 1887.

(B) See *Shibo v. American Board of Missions*, 19 N.L.R. 175, where it was

laid down that a magistrate has no power to expel a native from a mission reserve under this Act.

Act 25, 1895.

Appointment of persons to take charge of Reserves.

7. The Natal Native Trust may appoint proper persons to take charge of Mission Reserves, and may pay all expenses incurred under this Act out of the funds raised from the Reserve, or out of advances made for the purposes of the Reserves from other funds in the control of the Trust.

Collection and appropriation of moneys raised from occupants of Reserves.

8. All moneys, other than Government taxes and fees, raised from the occupants of a Mission Reserve, shall be collected by the Natal Native Trust, and shall be used in repaying advances made by the Trust, and thereafter for the benefit of such occupants.

Reservation of lands for native converts.

9. 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, and the rules to be passed with respect to any such special Reserve may 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.

Exclusion of intoxicants.

10. No person shall be allowed to bring wines, spirits, malt liquor, or shimiana, or treacle for the purpose of making shimiana, on to a Reserve (A).

Powers of native chiefs.

11. The Governor may decide what powers, if any, are to be exercised by Native chiefs in Mission Reserves.

Removal of natives by Supreme Chief.

12. 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 may remove any tribe, or portion of tribe, or Native.

Acquisition and tenure of lands by natives.

13. Natives, whether male or female, may acquire land in a Mission Reserve, and may be given title thereto, and such land may be held and enjoyed by such Natives and their heirs, subject only to the provisions of this Act and the due observance of any rule passed hereunder, and of any conditions contained in the title deed.

Saving of missionary rights.

14. Nothing in this Act contained shall in any way lessen the rights as missionaries of any ministers of the religious denomination mentioned or referred to in the original grant of the Mission Reserve.

Act No 11, 1896

“To provide for the Trial of Faction Fighting amongst Natives.”

[1st June, 1896.]

WHEREAS it is desirable to provide for the prompt and effectual punishment of Faction Fighting amongst Natives, and for simplifying the procedure in such cases:

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:—

Repeal.

1. The words “the Native High Court or,” occurring in Section 8 of Act No. 13, 1895, shall be repealed.

Meaning of “Faction Fighting.”

2. For the purposes of this Act, “Faction Fighting” means fighting with or without weapons, between Natives, in which not less than eight persons are engaged, and includes any breach of the peace, riot, assault, injury or homicide, occurring in such fight.

Jurisdiction of Courts.

3. Faction Fighting shall be a crime cognizable in the Courts of the Magistrates: Provided, however, that—

(A) See s. 78 of Act 38, 1896, tit. “INTOXICATING LIQUORS.”

- (a) Nothing in this Act shall prevent a prosecution for any offence with which, but for this Act, any person might have been charged. Act 11, 1896.
- (b) Nothing in this Act shall be deemed to take away the discretion of a Magistrate to commit any one or more of the accused for trial in the Supreme Court or a Circuit Court.
- (c) If any person has been killed, the case shall not be tried by the Magistrate except upon the direction of the Attorney-General.

4. [Repealed by Act No. 4, 1897.]

5. For the purposes of a case of Faction Fighting, Law No. 14, 1864, shall be deemed sufficiently complied with by a statement made in the form prescribed by that Law by any person acting as spokesman on behalf of such of the accused as are willing to accept such person as their spokesman. Application of Law 14, 1864.

6. If any of the accused shall give evidence under Law No. 37, 1888 (A), at the trial of a Case of Faction Fighting, such evidence shall be deemed admissible both as a confession and as the evidence of a witness; and in so far as such evidence shall relate to others of the accused it shall not be excluded by reason that it is given by an accused person. Evidence by accused persons.

7. For the purposes of simplifying the trial of cases of Faction Fighting, the Supreme Court may make special rules defining the mode and form of indictment (b), summons, pleading, trial, and all matters whatsoever relating to the practice and procedure in such cases in the Supreme Court and Circuit Courts, and in like manner the Rules Board may make rules in the manner by law prescribed for all matters whatsoever relating to the trial of such cases in the Magistrates' Courts. Rules of Supreme Court and Magistrates' Courts.

Act No. 9, 1897.

“To amend Act No. 11, 1896, entitled Act ‘To provide for the Trial of Faction Fighting amongst Natives.’”

[22nd May, 1897.]

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. Section 4 of Act No. 11, 1896, is hereby repealed, and in lieu thereof the following is enacted:— Repeal of sec. 4, Act 11, 1896.

For the punishment of Faction Fighting a Magistrate shall have the power to pass upon each person convicted a sentence of imprisonment with or without hard labour for any term not exceeding two years, or of fine not exceeding Twenty Pounds Sterling, with or without the alternative of imprisonment, as aforesaid: Provided that this section shall not be construed to limit the jurisdiction of the Supreme Court as regards cases tried in that Court. Punishments for Faction Fighting.

(A) Tit. “EVIDENCE AND WITNESSES,” *or aiding in a faction fight held to be good (Reg. v. Thomase and others, 20 N.L.R. 9).*
 p. 10.
 (B) An indictment for taking part

NATIVE LAW.

[See "COURTS (NATIVE)," "WILLS (NATIVES)," &c.]

Law No. 28, 1865.

"For relieving certain persons from the operation of Native Law."

[24th August, 1865.]

WHEREAS the system or body of Law commonly called the "Native Law" except in so far as the same may be repugnant to the general principles of humanity is, as regards all transactions arising between natives, in force in this Colony:

AND WHEREAS it is not expedient that the said natives generally should be withdrawn from the operation of that Law, but on the contrary they should remain subject to the provisions thereof and the special control thereby created, but so as nevertheless to relieve certain persons being such natives of the Colony, or of countries thereunto adjacent, now or hereafter resident in the Colony from the operation thereof by reason of their not now being either so ignorant or so unfitted by habit or otherwise as to render them incapable of exercising and understanding the ordinary duties of civilized life:

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

Repeal.

1. That Law No. 11, 1864, shall be and the same is hereby repealed.

Male native may petition Governor for exemption.

2. Any male Native resident in this Colony may, by petition to the Lieutenant Governor, pray for a letter of exemption declaring the petitioner exempt from the operation of Native Law.

What petition must contain.

3. Every petition shall state and set forth first, the petitioner's full name; second, place of his birth; third, his age and residence; fourth, the length of time he has resided in the Colony; fifth, his trade or calling; sixth, whether he be married or unmarried, and if married, when, where, and in whose presence he was so married, and in case he shall have been married by any Minister of Religion or by any Resident Magistrate such petition shall state by whom he was so married; seventh, the number, sex, and ages of any child or children if any then living; eighth, a full description of his property both movable and immovable and as regards the immovable property stating the situation thereof and whether it is held by petitioner as proprietor or renter; ninth, whether he can read or write; tenth, whether he is or has been subject to any native Chief now in the Colony, and if so, naming such Chief and his tribe; eleventh, the name of the Chief, whether in or out of the Colony, under whom he was born; twelfth, the names, and, if alive, the residence at the date of the petition, of his father and mother; and thirteenth, the object the petitioner has in view in seeking such letters of exemption.

Affidavit to be subjoined to petition.

4. To every such petition there shall be attached or subjoined an affidavit sworn, solemnly declared, or affirmed by the petitioner before any Justice of the Peace in this Colony, to the effect that the petitioner is aware of the statements in such petition, and that they are true.

False statements in petition punishable as perjury.

5. Any person who shall wilfully and falsely swear, solemnly declare, or affirm that he is aware of the statements in any petition

referred to in this Law, when in truth he is not, or that the statements or any one of them contained in such petition are true when they are not so, or when he does not know them to be so, shall be liable to be proceeded against in the usual manner by indictment for wilful and corrupt perjury, and on conviction shall suffer the pains and penalties by law provided for that offence.

Law 28, 1865.

6. There shall also be attached to every such petition a certificate signed by at least one person resident in this Colony not a native, and possessing within the same the proper qualification necessary to serve as a Juryman, declaring his or their belief that the petitioner is a fit and proper person to receive letters of exemption from Native Law.

Certificate to be attached to petition.

7. The Lieutenant Governor, on receiving any petition as aforesaid, may fix a day for the same being considered by the Executive Council; or may for reasons to him appearing sufficient, refuse to submit any such petition to the Executive Council; or the Lieutenant Governor may require any further information or explanation from the petitioner, or otherwise as may to him appear necessary in each case as it arises.

Lieutenant Governor may determine how petition shall be disposed of.

8. Whenever any such petition is submitted by the Lieutenant Governor to the Executive Council, the said Council shall have full power and authority to investigate the truth of the statements contained in the petition or to require the petitioner to furnish any additional information or any explanation it may consider necessary, and having reference to each particular petition; and the said Council may require the appearance personally of the petitioner before them to be examined on any point, or to satisfy them by personal examination of the fitness or otherwise of the petitioner for letters of exemption.

May submit it to Executive Council.

9. The Lieutenant Governor with the advice and consent of the Executive Council, or with the advice and consent of the majority of that body, may grant or may refuse the prayer of any petition for letters of exemption.

Prayer may be granted or refused.

10. The decision of the said Executive Council granting or refusing the prayer of any petition for letters of exemption shall not be subject to review or appeal by any court or authority in this Colony; nor shall any court or authority in this Colony have or exercise any power or jurisdiction whatsoever as to any matter or question arising out of any provision of this Law other than those contained in the fifth, seventeenth, eighteenth, nineteenth, twentieth, twenty-first, twenty-second, twenty-third, twenty-fourth, twenty-fifth, twenty-sixth, twenty-seventh, and thirtieth sections.

Decision not subject to appeal.

11. No person whose petition the Lieutenant Governor has refused to submit to the Executive Council, and no person whose petition for letters of exemption shall have been refused by the Lieutenant Governor with the advice and consent of the Executive Council, shall be capable of again petitioning for such letters until the expiration of two years after such refusal.

Exceptions.

Petition may again be presented after two years.

12. Letters of exemption when granted shall be in the form marked in the schedule hereunto annexed; and the same shall not be issued to any petitioner until he shall have taken an oath, or declaration, or affirmation of allegiance to Her Majesty, her heirs or successors, before some person authorised to administer the same.

Form of letters.

13. The Lieutenant Governor may, after having submitted any petition to the Executive Council, and after the Lieutenant Governor with the advice and consent of the Executive Council shall have decided upon granting letters of exemption, withhold granting the same for any reason to him appearing sufficient and coming to his knowledge after the decision of the Council; provided that the petition, together with the additional facts, shall be reconsidered by the Lieutenant Governor and Council.

Letters may be withheld.

Petition may be reconsidered.

Law 28, 1865.

Letters of exemption to be registered.

14. All letters of exemption granted as aforesaid shall be registered in the office of the Registrar of Deeds, and shall have endorsed thereon the date of such registration, which registration shall also contain the name of the wife of the holder thereof, the names of the children, if any, the sex, and as near as may be the ages of such children; and the Registrar of Deeds shall transmit a duly certified copy of such letter of exemption and endorsement to the Secretary for Native Affairs to be by him filed in his office.

Governor and Council may examine witnesses.

15. The Lieutenant Governor and the Executive Council may examine any witness as to any petition or the petitioner himself under oath, or solemn declaration or affirmation, to be administered by the Lieutenant Governor or the Member presiding at such Council, and may make such rules and regulations as to them may seem necessary touching and concerning the mode in which witnesses may be summoned to attend and give evidence, the manner in which the statements in any petition are to be investigated, and the evidence they may require to sustain the prayer of any such petition; and may also by letter authorise any witness to be examined before any person named in such letter as a commission: Provided that the Lieutenant Governor and Council may from time to time revoke, or alter, or amend, any such rule or regulation, and frame new rules or regulations in place of those so revoked as aforesaid.

And make rules for such examination.

Fine may be imposed on witnesses.

16. The Lieutenant Governor and Council may by such rules and regulations impose any fine for the non-attendance of any person duly summoned as a witness, not exceeding ten pounds.

Native claiming exemption must produce letter or copy.

17. In every case in which any native shall claim to be exempted from the operation of Native Law, and in every case in which any question shall arise, or in which any native shall claim the exercise of any right or privilege by reason of his exemption from Native Law under the provisions of this Law, it shall be incumbent on the native so claiming to produce his letter of exemption, or a duly certified copy thereof, and if need be to prove that he is the person described therein; and the possession of the letter of exemption shall in all cases be received as proof that the native so obtaining and possessing any such letter of exemption was qualified to apply for the same.

Person illegally lending or altering letters of exemption liable to two years' imprisonment.

18. If any person to whom letters of exemption have been granted under this Law shall, with the purpose or with the intent to accomplish any object whatever which the legal holder of such letters of exemption alone could accomplish, lend, or deliver any such letters of exemption to any other person, or if any such person shall alter, or cause to be altered, anything set forth in such letters of exemption then, and in every such case the person lending or delivering such letters of exemption, and the person taking or receiving the same, and the person altering or causing such letters to be altered, as well as the person actually making any such alteration, may be proceeded against by indictment at the instance of the Attorney-General in the Supreme Court or any Circuit Court, and on conviction may be adjudged to imprisonment with or without hard labour for any period not exceeding two years.

Person receiving letters of exemption relieved from Native Law.

19. Any person to whom letters of exemption shall be granted under this Law, shall, from and after the date of the delivery of such letters to him, and upon publication of the same in the "GOVERNMENT GAZETTE," be deemed and reckoned as exempt from the provisions and operation of Native Law, and shall thereafter be deemed subject to the ordinary laws of the Colony (A).

(A) This exemption does not have a retrospective effect. See *Lutayi v. Tsheli*, 16 N.L.R. 26, where a native exempted from Native Law was held to have been wrongly sued under the

ordinary law of the Colony in respect of matters arising out of "lobola" transactions occurring previous to his exemption.

20. The ordinary law of the Colony, by which children born before wedlock become legitimate by the legal marriage, subsequent to their birth, of their parents, is hereby extended to and made applicable to the children of any native so exempt' as aforesaid by a wife whom he has married according to any Christian rites.

21. Every letter of exemption when granted to a male married native shall, if his marriage has been legally solemnized according to the Christian rites, be deemed to extend to and include his wife and his children by such wife under such marriage, then living, except such sons as shall have attained the age of sixteen years, and except also such of the said children, male or female, who at the time of the granting of the letters of exemption shall have contracted marriage; and the names of the wife and children exempted shall be inserted in the said letters of exemption: Provided always, that it shall and may be competent for the Lieutenant Governor and Executive Council to exclude from any such letters of exemption the names of any of the said children who shall have wilfully left the control of their said father, or who shall otherwise from any circumstance whatever be in the opinion of the Lieutenant Governor and Executive Council unfitted to be exempted from the operation of Native Law.

22. Every letter of exemption when granted to a male married native who shall not have contracted' his said marriage according to the Christian rites but by Native Law or custom, shall extend to and include his wife and also his children by such wife, under such marriage, then living, except such sons as shall have attained the age, or apparent age of sixteen years, and except also such of the said children, male or female, who at the time of the granting of the letters of exemption shall have contracted marriage; and the names of the wife and children exempted shall be inserted in the said letter of exemption: Provided always, that it shall and may be competent for the Lieutenant Governor and Executive Council, should they deem it fitting so to do, to exclude from any such letter of exemption the names of any or all the said children by such native marriage.

23. In case any male native receiving a certificate of exemption shall have had children by any wife or wives not living at the date of the issue of such certificate, it shall and may be competent for the Lieutenant Governor and Executive Council at their discretion to include in any such letter of exemption, any or all of such children who shall not themselves have contracted marriage, or who, being male, shall not, in the opinion of the Lieutenant Governor and Executive Council, have attained the age of sixteen years at the time of granting the said letter of exemption.

24. It shall not be lawful for any native, having been exempted from Native Law and having contracted marriage, should either of the parties to such marriage become a widower or widow, as the case may be, or should they be divorced by process of law, to contract any marriage at any future time by Native Law, custom, or usage; and any such future marriage or pretended marriage shall be null and void and of no effect: and any native acting contrary to this provision shall be liable on conviction to a fine not exceeding fifty pounds or to imprisonment for any period not exceeding two years, at the discretion of the Supreme or Circuit Courts of the Colony, on the prosecution of the Attorney-General.

25. If any daughter of any native having received a letter of exemption, and being herself exempted by such letter, shall marry according to Christian rites any native not exempted under this Law, such daughter shall be deemed to have relinquished any exemption from Native Law acquired under this Law, but shall retain all rights

Law 28, 1865.

Legitimation by subsequent marriage extended to children of exempted native by Christian wife.

Letters of exemption to include wife and children of native, married according to Christian rites.

Exceptions.

Same if married under Native Law, but with discretion to Governor to exclude the names of all or any of the children.

Children by deceased wife may be included in letters.

Exempted native must never again contract marriage under Native Law.

Penalty.

Daughter exempted under this Law, marrying unexempted native according to Christian rites, to forfeit exemption.

Law 28, 1865. to her belonging under the ordinary law of the Colony upon the estate of her parents.

Same if she marry under Native Law, when she also forfeits other privileges.

26. If the daughter of any native having received a letter of exemption, and being herself included in such letter, shall marry according to Native Law a native who has not been exempted under this Law, such daughter shall thereby be deemed to have relinquished her exemption, and any rights or privileges she may have acquired under this Law upon the estate of her parents.

Succession to native's property, testate and intestate.

27. The movable or immovable property of any native, married or unmarried, or a widower or widow, who shall have been exempted from Native Law by any letter of exemption under this Law, shall be disposed of according to any will, which according to the ordinary law of the Colony such native was entitled to make, and the estate of any such native dying intestate shall be disposed of amongst the legal heirs according to such ordinary law whether such heirs have received or are included in any letter of exemption or not, anything hereinbefore contained to the contrary notwithstanding.

Law not to extend to Natives living in polygamy.

28. This Law shall not extend to any native living in polygamy, except so far as regards his share in such intestate estates as aforesaid, nor shall any such native be capable of obtaining any letter of exemption under this Law.

Unmarried female native may petition in same way.

29. Every unmarried female native, resident in this Colony, may, by petition to the Lieutenant Governor, pray for a letter of exemption, declaring the petitioner exempt from the operation of Native Law.

What petition shall contain.

30. Every such petition shall state and set forth, first, the petitioner's full name; second, place of birth; third, her age and residence; fourth, the length of time she has resided in the Colony; fifth, whether she can read or write; sixth, whether she is or has been subject to any chief now in the Colony, and, if so, the name of such chief and his tribe; seventh, the names, and, if alive, the residence, at the date of the petition, of her father and mother; or, if all these particulars are not known to the petitioner, then so many as are known to her. Such petition shall further state the name of a person of European descent willing to accept the office of guardian to such unmarried female native.

Affidavit.

31. To every such petition there shall be attached or subjoined an affidavit, similar to that required for a male petitioner under clause fourth of this Law.

Certificate by person willing to accept guardianship.

32. To such petition shall be attached a certificate from a person of European descent declaring his willingness to accept the office and to fulfil the duties of guardian to such unmarried female native.

Certificate by minister, &c.

33. To such petition shall also be attached a certificate signed by one or more ministers of religion, missionaries, or Justices of the Peace, declaring his or their belief that the petitioner is a fit and proper person to receive letters of exemption from Native Law; also that the proposed guardian is, from his or their personal knowledge of him, a fit and proper person to be appointed to such office.

Governor may determine on petition as in case of male native.

34. All such petitions from unmarried female natives shall be considered and determined upon by the Lieutenant Governor and the Executive Council, in the manner prescribed by this Law in the case of male natives.

Governor may define duties of guardian.

35. The Lieutenant Governor may, by proclamation in the "GOVERNMENT GAZETTE," define and set forth the duties and rights of the office of such guardian of a female native, and of such ward, and the mode of proceeding should such duties and rights be neglected or refused to be allowed.

Fees to be payable.

36. There shall be payable on each document issued or given by the Lieutenant Governor under this Law, such fees or charges as may

from time to time be fixed by the Lieutenant Governor by proclamation; and all fines, or penalties, or fees imposed under this Law shall be paid to Her Majesty, her heirs, or successors, to be, unless remitted, applied for the public uses of this Colony, and the support of the Government thereof. Law 28, 1865.
Disposal of fines.

37. The term "Native" in this Law shall be taken to mean and include the coloured persons resident in this Colony who are commonly called natives. Meaning of "Native."

38. This Law shall commence and take effect from and after such date as the Lieutenant Governor by Proclamation in the "GOVERNMENT GAZETTE" shall make known Her Majesty's assent thereto (A). Commencement

SCHEDULE.

To all to whom these presents shall come greeting :

Whereas under the provisions of the Law entitled "For relieving certain persons from the operation of Native Law," the Lieutenant Governor of Natal, by and with the advice of his Executive Council, is empowered to grant letters of exemption to any native resident in the Colony; and whereas, A. B., being at the present time dwelling at Schedule.
in the County or District of
has, in conformity with the provisions of the said Law, been deemed to be a fit and proper person to be taken out of the operation of Native Law.

Now know ye, that by and with the advice of the said Executive Council, and that by and under the powers in me vested by the said Law, I do hereby make known and declare, that, on and after the date of the publication of these presents in the "GOVERNMENT GAZETTE," the said A. B. and C. D., his wife, and F. G. (insert sex and age), and H. I. (insert sex and age), being his child or children, shall be, and are (or is) hereby declared to be exempted from, and taken out of the operation of Native Law; and shall be, and are henceforth subject to the ordinary Laws of the Colony.

Given by me this _____ day of _____
in the year of our Lord
at _____

Lieutenant Governor.

Law No. 13, 1875.

"To repeal and re-enact, with amendments, Laws No. 6, 1857 and No. 1, 1869."

[17th December, 1875.]

WHEREAS it is expedient to increase the present rate of taxation upon native huts, and to abolish the fees now payable to the public revenue for the registration of Native Marriages, and for the translation of Native married women and children from an inferior to a higher house, and with such view to repeal and re-enact, with amendments, the Laws No. 6, 1857, and No. 1, 1869 :

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows :—

1. Law No. 6, 1857, entitled "For regulating the Taxation on Native Huts," and Law No. 1, 1869, entitled "To enable the Repeal.

(A) G.G., May 1, 1866.

Law 13, 1875. Lieutenant Governor to impose Fees on the Registration of Native Marriages, and on certain other customs and usages of the Natives, and to make provision for remunerating the Chiefs of such Natives," shall be and the same are hereby repealed: Provided that all proceedings, matters, and things lawfully had or done, and all rules, regulations, orders and appointments made before the commencement of this Law, by, under, or in pursuance of the said repealed Laws or either of them shall, so far as they are not repugnant to or inconsistent with any of the provisions of this Law, be of the same force and effect, to all intents and purposes, as if no such repeal had taken place, and that no suit or proceeding which shall, at the time of the commencement of this Law, be depending in any court shall abate or be discontinued or be in anywise prejudiced or affected, but shall be proceeded with, heard and determined, and the decision thereon enforced as if this Law had not been passed; and that no appeal depending at the time of the commencement of this Law, or which may then be brought from any decision theretofore pronounced, or from any decision thereafter to be pronounced in any suit or proceeding then depending and undecided, shall be affected by the provisions of this Law; but the same may be respectively instituted, proceeded with, heard and determined, and the judgment or order thereon enforced as if this Law had not been passed; and that all offences committed and penalties incurred before the time of the commencement of this Law against any of the said repealed provisions, shall and may be tried, enquired into and enforced, and every conviction or order made or given before the time of the commencement of this Law, shall and may be enforced and proceeded with as if this Law had not been passed.

Proviso.

Native Hut Tax regulated.

2. For the year 1876, and for every succeeding year, until otherwise enacted, there shall be levied upon every hut occupied by a Native within this Colony a tax of Fourteen Shillings sterling: Provided that all houses of European construction inhabited by Natives having only one wife and otherwise conforming to civilized usages shall be exempt from Hut Tax.

Governor may appoint Collectors; and (with advice of Executive Council), make rules, &c.

3. The Lieutenant Governor may, from time to time, appoint such persons as he may think fit, to be collectors of Hut Tax, and may with the advice of his Executive Council make and frame such rules and regulations, and give such orders, and, in cases of non-payment or evasion of Hut Tax, impose such fines and penalties as he may deem expedient for the due collection of the said Hut Tax, and for carrying out the provisions of this Law; and such rules, regulations, and orders may from time to time alter, vary, amend, or annul, and all such rules, regulations and orders shall have the same force and effect as if they had been enacted in this Law.

Fees for registration of Native Marriages, and for translation of native women, abolished;

4. From and after the commencement of this Law no fee or charge shall be payable under Law No. 1, 1869, for the registration of any Native Marriage, or for the registration of any translation of a Native married woman or child from an inferior to a higher house: Provided, however, that it shall and may be lawful for the Lieutenant Governor in Council from time to time, as occasion may require, to make regulations regarding the registration of such marriages, and the payment of such other fees thereon, in such manner and upon such conditions and subject to such restrictions as may be deemed expedient.

but Governor may make regulations.

Governor may appoint persons, &c.

5. The Lieutenant Governor may from time to time appoint such persons and make such orders, and in cases of non-payment or evasion of any fees, impose such fines or penalties as he may deem expedient for the due collection of the said fees and enforcement of such regulations; and in lieu of the provision for the payment of Native Chiefs or other Native Officers, or persons acting as such in this Colony,

made by Section 3 of Law No. 1, 1869, hereby repealed, there shall be payable to the said Native Chiefs or other Native Officers, or persons acting as such, in acknowledgment of such services as may be demanded of them by the Government under this Law and the Native Administration Law, such sums, not exceeding an annual sum of One Hundred and Fifty Pounds to any one Native Chief or other Native Officer, as shall from time to time be voted by the Legislative Council and approved of by the Lieutenant Governor.

Law 13, 1875.
Allowances to Native Chiefs and Officers.

6. The terms "for the year" and "for each succeeding year" shall be held to mean, and shall mean, the tax collected during the year.

Hut tax year defined.

7. This Law shall commence and take effect from and after the promulgation thereof in the "GOVERNMENT GAZETTE" (A).

Commencement

Law No. 26, 1875.

"To make better provision for the Administration of Justice among the Native Population of Natal, and for the gradual assimilation of Native Law to the Laws of the Colony."

[17th December, 1875.]

WHEREAS it is necessary and expedient to make better provision for the administration of justice among the native population of Natal, and for the gradual assimilation of the Native Law to the Laws of the Colony:

BE IT THEREFORE ENACTED by the Lieutenant Governor of the Colony, with the advice and consent of the Legislative Council thereof, as follows:—

1. The Ordinance No. 3, 1849, entitled, "Ordinance for repealing so much of the Ordinance No. 12, 1845, as is inconsistent with a Proclamation issued by the Lieutenant Governor of the District of Natal, on the 21st day of June, 1849, and with the provisions of this Ordinance; and for providing for the better administration of justice among the natives," shall be and the same is hereby repealed, save only and except so far as regards all offences against and all penalties and forfeitures incurred under said Ordinance, and all proceedings taken or commenced before this Law shall come into operation under or in execution of the said Ordinance, all which offences may be prosecuted and all which penalties and forfeitures may be enforced, and all which proceedings shall be as valid to all intents and purposes, and may be continued, executed, and enforced in the same manner as if this Law had not been passed, and save also and except so far as regards all appointments, rules, regulations, and orders made under the said Ordinance, which, until revoked, altered, or amended, and save so far as they are not in conflict with any of the provisions of this Law, shall continue in force and shall be deemed to be rules, regulations, and orders under this Law: Provided, however, that nothing herein contained shall interfere with the authority now exercised by Chiefs or Headmen in any district or districts in which no appointments have been made under the powers conferred by this Law, or until such appointments shall have been made.

Repeal.

Provisoes

2. }
3. } [Repealed by Act No. 49, 1898.]
4. }
5. }
6. [Repealed by Act No. 13, 1895.]

(A) G.G., January 25, 1876.

T 2

- Law 26, 1875.** 7. There shall be constituted a Court, to be termed the Native High Court, and such High Court shall be presided over by a Judge specially appointed by the Lieutenant Governor, and such Judge shall sit as sole Judge, or may be assisted, as occasion may require, by Administrators of Native Law, or Native Chiefs, or other Native Officers, as assessors, in manner hereafter to be provided; and such Court shall hear and try all appeal cases from the Courts of the Administrators of Native Law, all civil cases that may be brought before it under the provisions of this Law, and all criminal cases, the trial of which is in this Law specially reserved to such High Court (A).
- Native High Court constituted.**
- Jurisdiction.**
8. The Judge of the said Court by this Law constituted, shall hold office during good behaviour, and shall receive from and out of the public revenues of the Colony, which are hereby made chargeable therewith, an annual salary equal to that which shall from time to time be assigned to a Puisne Judge of the Supreme Court.
- Tenure of office, and salary of Judge.**
9. [Repealed by Act No. 2, 1894.]
10. [Repealed by Law No. 44, 1887.]
- Proclamation of Native Law, when reduced to writing.**
11. Whenever, and so soon as such Native Law shall have been reduced to writing, it shall be proclaimed and published by the Lieutenant Governor in the "GOVERNMENT GAZETTE," and from time to time thereafter on any amendment or alteration being made in Native Law in the manner provided for herein, such amendment or alteration shall likewise be published as aforesaid.
- Fines and Fees payable to Treasury.**
12. All fines and fees payable under this Law shall be paid into the Colonial Treasury.
13. [Repealed by Law No. 44, 1887.]
- Native taking part in riot or faction fight deemed guilty of homicide, assault, or other injury arising therefrom, unless he is proved not guilty.**
14. Where any homicide, assault, or other injury to person or property has occurred, which has been caused by or arisen out of any riot by Natives or faction fight between Natives, any Native who is shown to the satisfaction of the Court or Administrator of Native Law before whom he is being tried, to have taken part in such riot or faction fight, shall be deemed guilty of such homicide, assault, or other injury, unless it shall be proved to the satisfaction of such Court or Administrator of Native Law that he was not guilty thereof (B).
15. [Repealed by Law No. 44, 1887.]
- Short title.**
16. This Law may be cited for all purposes as "The Native Administration Law, 1875."
- Commencement**
17. This Law shall commence and take effect from the date of the publication in the "GOVERNMENT GAZETTE" of this Colony of Her Majesty's confirmation thereof or assent thereto (C).

Law No. 44, 1887.

"To amend 'The Native Administration Law, 1875.'"

[18th September, 1887.]

WHEREAS it is expedient to amend "The Native Administration Law, 1875," and for this purpose to repeal and re-enact with amendments certain sections of the said Law:

BE IT THEREFORE ENACTED by the Governor of the Colony of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

(A) See "COURTS (NATIVE)." This section and the following section are no longer of any force, and were virtually repealed by Act No. 13, 1895, now repealed.

(B) See Act No. 11, 1896, tit. "NATIVES (IN GENERAL)."

(C) Proclamation of confirmation, dated Dec. 5, 1876.

1. The Sections 10, 13, and 15 of "The Native Administration Law, 1875," shall be and the same are hereby repealed. Law 44, 1887.
Repeal.

2. [Repealed by Act No. 49, 1898.]

3. The Administrators of Native Law shall, in the first and third week of every month, forward a Return of all criminal cases adjudicated upon by them under Native Law during the previous fortnight to the Secretary for Native Affairs (A), together with the records when demanded, who shall have full power and authority, with the sanction of the Governor, to alter, amend, vary, or quash any judgment of any Administrator of Native Law, should he be of opinion that any manifest hardship or injustice has been done by such judgment. Administrators
of Native Law
to make fort-
nightly returns.

4. [Repealed by Act No. 13, 1895.]

5. [Repealed by Act No. 13, 1895.]

6. Where any homicide, assault, or other injury to person or property, whether of Native or person of European descent, has occurred, and it is shown to the satisfaction of the Governor that such homicide, assault, or other injury as aforesaid 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 otherwise by passive resistance to constituted authority to encourage the repetition of such crime or offence, it shall be lawful for the Governor to impose upon such tribe or community a fine not exceeding £5 per head of the male adult population for each offence, to be recoverable in such manner as the Governor shall direct, and to remit such fine, or any portion thereof, if he shall see fit. When there is
reason to be-
lieve a combina-
tion exists for
purpose of
shielding cer-
tain offenders,
Governor may
impose fine on
the tribe.

7. The Governor shall exercise and enjoy over all the Chiefs and Natives in the Colony all the power and authority which, according to the laws, customs, and usages of Natives, are held and enjoyed by any Supreme or Paramount Native Chief, and he is hereby empowered, with the advice and consent of the Executive Council, to direct that any Chief who has been found guilty of any political offence likely to endanger the peace of the Colony, shall be dismissed from such chieftainship, and be removed from the Location where he shall have resided, and be placed under such supervision or restraint as may appear to be expedient. Powers of
Governor as
Supreme Chief.

8. That no judgment shall be given in any Court of Law against any Native founded on a promissory note (B), bill of exchange, or mortgage bond, or other liquid document of debt (C), unless such promissory note, bill of exchange, mortgage bond, or other liquid document of debt, shall have endorsed thereon, or attached thereto, a certificate signed by a Resident Magistrate or a Justice of the Peace, to the effect that the Native sought to be charged thus, signed his name or made his mark in the presence of a Resident Magistrate or of a Justice of the Peace after the same has been explained to him by Restrictions on
contracts of
natives founded
on liquid docu-
ment of debt.

(A) See Act 49, 1898, s. 52, tit. "COURTS (NATIVE)," p. 8, the office of A.N.L. is now abolished, the duties of the office being performed by Magistrates.

(B) A promissory note which was invalid under this sec. could not be used to sustain the defence of novation in an action on a claim for rent (*Allison Bros. v. Filepu*, 14 N.L.R. 173).

(C) A certificate of sale and purchase of Crown Lands is not a "liquid document of debt" within the meaning of this sec. (*Surveyor-General v. Umhlugulu*, 14 N.L.R. 24). See also *Francis v. Galonæ and others* (16 N.L.R. 55) for an example of a document held not to come within this section.

Law 44, 1887. the said Resident Magistrate or Justice of the Peace (A): Provided that this clause shall not extend to any document signed before the passing of this Law.

Law 26, 1875,
and this Law to
be read together

9. "The Native Administration Law, 1875," and the Law No. 21, 1878 (B), entitled "Law to confer upon Administrators of Native Law appointed under Law No. 26, 1875, certain increased jurisdiction within their respective Districts," and this Law shall be read and construed together as one Law.

Commencement

10. This Law shall not come into operation unless and until the Officer Administering the Government notifies by Proclamation in the "GOVERNMENT GAZETTE" that it is Her Majesty's pleasure not to disallow the same, and thereafter it shall come into operation upon such day as the Officer Administering the Government shall notify by the same or any other Proclamation (c).

Law No. 19, 1891.

"To legalise the Code of Native Law laid before the Legislative Council according to the provisions of Law No. 44, 1887."

[5th August, 1891.]

WHEREAS by Law No. 44, 1887, entitled "Law to amend 'The Native Administration Law, 1875,'" provision was made for the appointment of a Board with power to propose the alteration, amendment, or repeal of any of the provisions of Native Law as known and administered in the Colony of Natal:

AND WHEREAS the Board appointed under the provisions of the said Law prepared a Code of Native Law as known and administered in the Colony of Natal, which Code was passed by the said Board on the Tenth day of April, 1890:

AND WHEREAS the Governor in Council by resolution, bearing date the Third day of May, 1890, adopted and approved of the provisions, alterations, and amendments of the Native Law as contained in the said Code so prepared by the said Board:

AND WHEREAS it is by the said Law provided that all new provisions, alterations, and amendments, so proposed as aforesaid, should be laid before the Legislative Council within fourteen days next after the Governor in Council shall have adopted and approved the same, and that the Legislative Council may object to any of the new provisions, alterations, or amendments so proposed:

AND WHEREAS the Code of Native Law so prepared as aforesaid and so adopted and approved by the Governor in Council as aforesaid, was on the Fifth day of May, 1890, laid before the Legislative Council according to the provisions of the said Law No. 44, 1887:

AND WHEREAS it is expedient to declare and enact that the Code of Native Law which is contained in the Schedule to this Law

(A) If the explanation was made through an interpreter, the certificate should state that it was done in the presence of the Magistrate or J.P. (*Francis v. Unojela*, 17 N.L.R. 9); but see *Maqikela Skosana v. Majumba*, 18 N.L.R. 6.

In *Rambarosse v. Qamgufa*, 20 N.L.R. 34, a defendant, having failed to satisfy a judgment debt, signed a note for the

amount and an additional sum for costs. The plaintiff's attorney drew up the note and, in his character of a J.P., after explaining and interpreting it, attested it; held not a valid attestation (*Babili v. Newmarch*, 20 N.L.R. 111).

(B) Repealed by Act 13, 1894, post.

(C) Came into operation Feb. 1, 1888. See Pn. in G.G., Jan. 17, 1888.

constitutes and comprises Native Law as defined under the provisions of Law No. 44 of 1887: Law 19, 1891.

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

1. The said Code constitutes and comprises Native Law as defined under the provisions of Law No. 44 of 1887. Code of Native Law.

2. Any of the clauses and provisions of the said Code may from time to time by Law duly passed by the Governor of Natal, by and with the advice and consent of the Legislative Council, be altered, added to, or amended; and no alteration, addition, or amendment shall be made in any other way, anything contained in the Law No. 44 of 1887, or in any other Law to the contrary notwithstanding. Mode in which Code of Native Law may be altered, amended, or added to.

3. This Law shall not come into operation unless and until the Governor shall notify by Proclamation in the "GOVERNMENT GAZETTE" that it is Her 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 (A). Commencement

SCHEDULE.

Code of Natal Native Law, Civil and Criminal, framed by the Board appointed by the Governor under the Provisions of Section 4 of Law No. 44 of 1887, and passed by the Board on the Tenth day of April, 1890. Schedule.

PART I.—CHAPTER I.

General Explanations.

1. The definitions given in this Chapter apply throughout this Code, subject to any special exceptions hereinafter set out.

2. The pronoun "He" or its derivatives, are used in respect of any person, male or female.

3. Unless the contrary appears from the context, words importing the singular include the plural number, and words importing the plural include the singular number.

4. The word "Queen" denotes the Sovereign for the time being, of the United Kingdom of Great Britain and Ireland.

5. The words "Supreme Chief" denote the Officer for the time being administering the Government of the Colony of Natal.

6. The word "Supreme Chief in Council" denote the Governor and the Executive Council of the Colony of Natal.

7. The word "Jurisdiction," as applicable to Courts or Public Officers, denotes the limits within which they shall exercise the powers and duties of their respective offices, whether the same relates to orders, appointments, offences, judgments, or punishments: and as applicable to Chiefs, it denotes the tribe or section of a tribe over which, or the district to which they have been appointed, or the powers they are called upon to exercise by this Code or by any other law or regulation.

8. The word "Tribe" signifies a number or collection or body of Natives forming a political organisation or community, and composed of not less than 20 kraals, under the government, control, or leadership of a Chief, and which organisation or community has been recognised or established by the Supreme Chief. The communities existing now, or hereafter to be formed in connection with Mission Stations, may be regarded as Tribes.

9. The word "Chief" denotes any person who by virtue of the acknowledgment or appointment of the Supreme Chief is in charge of

(A) Came into operation Oct. 1, 1891. See Pn. in G.G. dated Aug. 11, 1891.

Law 19, 1891. a Tribe, or section of a Tribe of Natives in this Colony, and entitled to
Schedule. have, use, and possess, the jurisdiction, powers, and privileges conferred by this Code upon such persons. The term Chief shall also include the persons appointed by the Supreme Chief to have charge over Natives living upon or connected with Mission Stations.

10. The words "District Headman" denote any person nominated and appointed by a Chief, to preside over a district under such Chief, and duly notified to the Administrator of Native Law as a District Headman.

11. The words "Official Witness" denote the person duly appointed and confirmed as such, to attend at the celebration of Native marriages.

12. The word "Native" shall be deemed to mean and to include, any member of the aboriginal races or tribes of Africa, south of the Equator.

13. The words "Kraal Head" denote the head of a family, and the possessor or occupier of the kraal or kraals containing such family, either in his own right or by the right of guardianship. The term kraal head shall also include the heads of families living on Mission Stations or private lands, whether living in kraals or in separate dwellings.

14. The word "Kraal" denotes the domestic establishment and ordinary place of residence of Natives. It is subject to and under the control of a "Kraal Head," and may consist of one or more houses. For the purposes of this Code, individual dwellings occupied by Natives on Mission Stations, or private lands, or elsewhere, are to be deemed kraals.

15. The word "Inmates" when used in connection with a kraal, denotes the persons usually residing therein, and subject to the kraal head.

16. The word "House" denotes the family and property, rights and status, which commence with, attach to, and arise out of, the marriage of each woman. It also includes the dwellings used and occupied by the Natives, commonly called huts.

17. The words "Kraal Property" denote all the property in a kraal or kraals being the absolute property of the kraal head. They do not denote property specially apportioned or gifted to any of the houses of the kraal or kraals, nor to the property of an inmate of a kraal, not related to or belonging to the family of the kraal head.

18. The words "House Property" denote all the property vested in and pertaining specially to the several houses in a kraal. House property may be acquired by donations or apportionments, and by the "lobolo" of the girls of the house.

19. The word "Indhlunkulu" (the great house) denotes the chief house in a kraal.

20. The word "Iqadi" denotes the chief house of the left hand side of the kraal, as viewed from the "Indhlunkulu," looking towards the gate.

21. The word "Ikohlo" denotes the chief house of the right hand side of the kraal, as viewed from the "Indhlunkulu" looking towards the gate.

22. The word "Affiliation," as used in this Code, signifies the attachment of a junior house to a senior or superior house, for the purpose of providing against the failure of an heir in the senior or superior house. More than one house may be so affiliated. The senior or superior houses in a kraal to which affiliation may be made, are first the "Indhlunkulu," secondly the "Iqadi," thirdly the "Ikohlo."

23. The word "Lobolo" denotes a delivery of cattle or other property, by or on behalf of an intended husband, to the parent or guardian of an intended wife. Law 19, 1891.
Schedule.

24. The word "Ukungena" denotes a special legal union with a widow, by a full or half brother of her deceased husband, with the express purpose of raising up seed on behalf, and in the name of, the deceased husband (A).

25. The words "Ukwetula" or "Etula" in connection with the kraal family system, denote a custom arising out of a marriage, and implies the transfer, in the discretion of the kraal head, of cattle from a lower to an upper house.

26. The word "Unqoliso" or "Ingqutu," or otherwise "Mumba," denotes the cow or other head of cattle, which is invariably gifted by the son-in-law elect to the mother-in-law elect, on every marriage of a girl.

27. The word "Insonyami" denotes that portion of a slaughtered animal which is the perquisite of a superior person or house from an inferior person or house.

28. The word "Umhlabulo" denotes that portion of a slaughtered animal which is the perquisite of an inferior person or house, from a superior person or house in a kraal.

29. The word "Sisa" denotes a custom by which A. deposits cattle or other live stock with B.; the property and increase remain in A., the use being enjoyed by B.

30. The word "Isityimiyana" denotes an intoxicating liquor, made of treacle or sugar mixed with water.

31. The words "Faction Fight or Riot," denote fighting or disturbance of the peace, in which three or more persons are engaged.

CHAPTER II.

The Supreme Chief.

32. The Supreme Chief for the time being, exercises in and over all Natives in the Colony of Natal, all political power and authority, subject to the provisions of Section 7 of Law 44 of 1887.

33. The Supreme Chief appoints all Chiefs to preside over tribes or sections of tribes; and also divides existing tribes into two or more parts, or amalgamates tribes or parts of tribes into one tribe, as necessity or the good government of the Natives, may in his opinion require (B).

34. The Supreme Chief in Council may remove any Chief found guilty of any political offence, or for incompetency, or other just cause, from his position as such Chief, and may also order his removal with his family and property, to another part of the Colony.

35. The Supreme Chief has absolute power to call upon Chiefs, District Headmen, and all other Natives, to supply armed men or levies for the defence of the Colony, and for the suppression of disorder and rebellion within its borders, and may call upon such Chiefs, District Headmen, and all other Natives to personally render such military and other service.

36. The Supreme Chief has power to call upon all Natives to supply labour for public works, or for the general needs of the Colony. This call or command may be transmitted by any person authorised so

(A) See *Gobeyana v. Maranna*, 21 N.L.R. 19, where it was laid down that there is no reason in Native Law why an *ukungena* union should not be

formed with a stranger who is not a relative of the woman.

(B) See Act 13, 1894, s. 5, post.

Law 19, 1891.
Schedule.

to do, and each Native so called upon is bound to obey such call, and render such service in person, unless lawfully released from such duty.

37. The Supreme Chief, acting in conjunction with the Natal Native Trust, may, when deemed expedient in the general public good, remove any tribe, or tribes, or portion thereof, or any Native, from any part of the Colony or Location, to any other part of the Colony or Location, upon such terms and conditions and arrangements as he may determine.

38. The orders and directions of the Supreme Chief, or of the Supreme Chief in Council, may be carried into execution by the Secretary for Native Affairs, or by the Administrators of Native Law, or by other officers authorised for the purpose, and in respect of all such acts the various officers so employed, shall be regarded as the deputies or representatives of the Supreme Chief, or of the Supreme Chief in Council, as the case may be.

39. The Supreme Chief in the exercise of the political powers which attach to his office has authority to punish by fine or imprisonment or by both, for disobedience of his orders or for disregard of his authority.

40. The Supreme Chief is not subject to the Supreme Court, or to any other Court of Law in the Colony of Natal, for, or by reason of, any order or proclamation, or of any other act or matter whatsoever, committed, ordered, permitted, or done either personally or in Council (A).

41. The Supreme Chief is by virtue of his office, Upper Guardian of all orphans and minors in law.

42. The Supreme Chief has power to regulate, and fix from time to time, the least number of houses which shall compose a kraal. He may, in his discretion, permit of exceptions to any such general rule in special cases.

CHAPTER III.

The Secretary for Native Affairs.

43. The Secretary for Native Affairs for the time being, is the principal executive officer of the Supreme Chief.

44. He shall be accessible to, and receive petitions from all Natives, whether written or verbal, and shall in every case, where an injustice or wrong exists (not being a private wrong remediable at law, and within the compass of the person wronged) take the necessary steps to protect and right the person or persons wronged.

45. He shall in all cases of disputed chieftainship or succession to chieftainship, and in tribal quarrels or dissatisfaction, or friction between tribes or chiefs, make enquiry personally or otherwise as may be deemed best, for the information of the Supreme Chief. For the purpose of more effectually conducting such enquiry, he shall have the same powers as the Native High Court, as regards the summoning of witnesses and others, and the punishing of persons for non-attendance when summoned, or for contempt of himself, or any lawful order issued by him (B).

CHAPTER IV.

Chiefs of Tribes.

46. The Chief in charge of a tribe, or section of a tribe, is a minor deputy of the Supreme Chief and a Judicial Officer, and holds such

(A) The irresponsibility conferred by this section is a qualified and not an absolute one, and the acts of the Supreme Chief are open to review to as-

certain whether they are within the scope of his authority or the sphere of his duty (*Sisiba v. Meseni*, 15 N.L.R. 237).

(B) See Act 40, 1896, s. 9, post.

offices during the pleasure of the Supreme Chief, and contingent upon his good behaviour and general fitness. Such Chief is responsible within his Location, or among the people of his tribe for:—

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Schedule.

- (a) The general good conduct of his tribe.
- (b) The prompt supply of men for purposes of defence, or to suppress disorder or rebellion, or as labourers for public works, or for the general needs of the Colony, as and when ordered by the Supreme Chief to supply the same.
- (c) The immediate notification to the Magistrate, or to the Administrator of Native Law, as the case may be, of all crimes or offences, or serious attempts at crime; of all mysterious or suspicious deaths or disappearances; of any epidemic or prevailing disease, either among the members of his tribe, or their stock.
- (d) The due publication of all such public orders, directions, or notices as may be notified to him, affecting the members of his tribe.
- (e) The appointment of a sufficient number of men to act as District Headmen for sections of his tribe, and the due notification of their appointment to the Administrator of Native Law, with power to remove the same with the approval of the Administrator of Native Law, and to appoint others in their stead (A).
- (f) The appointment of a sufficient number of Official Witnesses for marriage purposes, and the due submission of such appointments to the Administrator of Native Law for ratification, with power to remove the same with the approval of the Administrator of Native Law, and to appoint others in their stead.
- (g) The due compliance with the Marriage Law Regulations by the people of his tribe, and for the due notification by the Official Witnesses of all marriages, to the Administrator of Native Law.
- (h) The prevention of crimes and offences, of the production, sale, and use of "Isityimiyana," or of any other intoxicating liquor whatever, Native beer ("utywala") excepted; of evasions of taxing or licensing laws, of the sale of poisons and love philtres, and of the practising of witchcraft or divinations.
- (i) The cognition and control of strangers not being people of his tribe, and of cattle other than cattle known to be the property of the tribe.
- (j) [Repealed by Act No. 37, 1896.]
- (k) To discharge such further and other duties, as may from time to time be required by the Supreme Chief.

47. Chiefs in their respective districts shall aid and assist, fully and freely, in apprehending and securing offenders of all descriptions.

48. Chiefs as deputies of the Supreme Chief, and Upper Guardian of orphans and minors in law, are deputy Upper Guardians of the same in their respective districts.

49. Chiefs have power to try all civil cases (divorces excepted) between Natives, whether arising from contract, or from tort or otherwise. The defendants or respondents, or the persons complained of, in all such matters, must be members of their tribes, otherwise they

(A) See Act 13, 1894, s. 3, post.

Law 19, 1891. have no power to deal with the same. An appeal lies from all their
Schedule. judicial acts, to the Administrator of Native Law having jurisdiction (A).

50. They shall cause all civil suits or complaints which may be notified to them, to be brought on for hearing without unnecessary delay.

51. In adjudicating upon any matter, or in performing any judicial act, Chiefs are entitled to claim and exercise the privileges appertaining to Courts of Law, in respect of disobedience of their orders, or contempt of their persons or Courts, and may for such offences impose a fine not exceeding Two Pounds Sterling.

52. In carrying out or causing to be carried out, any order or request of the Supreme Chief, all Chiefs act as his minor deputies, and when so acting may impose a fine not exceeding Two Pounds Sterling for any act of disobedience.

53. The Administrators of Native Law, in their capacities as deputies of the Supreme Chief, have power to enquire into all acts of Chiefs as minor deputies of the Supreme Chief.

54. Appeals against any fines imposed by Chiefs when performing any judicial act, when exceeding Ten Shillings, may be made to the Administrator of Native Law in his judicial capacity; and any fines imposed by them, shall be recoverable by summary levy, and be used by and for the benefit of the Chief (B).

55. Any Native found in a Chief's kraal and unable to give a good account of himself, and any Native rioting or disturbing the peace within the precincts of such kraal, may be arrested by order of the Chief, and charged therewith before the Administrator of Native Law.

56. The Chiefs shall take cognisance of all crimes and offences committed within their respective jurisdictions, but may not adjudicate thereon, but will promptly report the same, or cause the arrest of the alleged offenders or suspected persons, and hand them over to the nearest Magistrate or Administrator of Native Law.

57. The personal privileges of the Chiefs are:—

- (a) The rank they hold.
- (b) The salaries paid to them.
- (c) The fees of their Civil Courts.
- (d) The fines lawfully imposed by them.
- (e) The right to the respect and obedience of the members of their tribes.

58. Questions affecting chieftainship or succession thereto shall be enquired into by the Secretary for Native Affairs, and not by any Judge or Administrator of Native Law.

CHAPTER V.

District Headmen.

59. District Headmen are responsible to the Chiefs for:—

- (a) The good conduct of the people of the district committed to their charge.
- (b) The prompt notification to their Chiefs of any unusual occurrence within their districts (c).

(A) See *Msh'we v. Henu Henu*, 16 N.L.R. 239, with regard to the exercise by chiefs of their judicial powers, and to the remedies of persons aggrieved by acts in the nature of non-judicial proceedings.

(B) See *Dlangana v. Julai*, 17 N.L.R. 243.

(c) The Court declined to support a conviction under this section for permitting an armed force to assemble at the Headman's Kraal with hostile intent; but—per Mason, J.—if the charge were properly framed under this sec. and sec. 15 of Act 40, 1896, the conviction might be upheld (*Supreme Chief v. Magunrubelana*, 19 N.L.R. 54).

60. District Headmen in their respective districts act as arbitrators free of charge, in the settlement of such minor matters as garden plot and grazing disputes or the like, on the understanding that should the parties concerned or either of them decline the award, the matter may be brought before the Chief or Administrator of Native Law as a civil matter by the parties or either of them. Law 19, 1891.
Schedule.

61. [Repealed by Act No. 37, 1896.]

62. They shall prevent the settlement of fresh kraals in, or the removal of old kraals from, their districts, save by the permission of the Chief, and shall control the erection of kraals on common grazing ground.

63. In the event of any cattle, other than those of the tribe, being brought into or through their districts under suspicious circumstances, they shall, failing a satisfactory explanation by the person or persons driving or possessing the cattle, detain such cattle, and forthwith notify the fact to the Chief, or to the Administrator of Native Law for enquiry.

64. They shall be responsible for the proper promulgation or transmission of orders, relating to the payment of taxes by the people of their districts, and for the due notification of the gun and game laws, or any other laws or regulations communicated to them for that purpose.

65. They are authorised to arrest, or cause the arrest of any Native, whom they shall have reasonable ground to suspect of having committed or attempted to commit any crime or offence, and upon arrest of the persons so offending, they shall, without delay, hand them over to the nearest Magistrate or Administrator of Native Law, to be dealt with according to Law.

CHAPTER VI.

Kraal Heads.

66. The head of a kraal is such either by virtue of being the owner thereof, and head of the houses therein, or by virtue of being the guardian during the minority of the chief heir.

67. The heir to the headship of a kraal may attain his majority, and assume his position as kraal head, at such time as his Chief may determine.

68. The kraal head (when not merely guardian) is absolute owner of all property belonging to his kraal, which does not specifically belong to any individual house in his kraal, or to any inmate therein, who is not of the family of the kraal head. As regards property belonging to houses of his family, he has the charge, custody, or control thereof, and he may in his discretion, use the same for his own personal wants and necessities, or for any general kraal purpose, or the entertainment of visitors, or he may use, exchange, loan, or otherwise alienate the same for the benefit, or in the interests of, the house to which it belongs; but he may not use or deal with house property, for the benefit or on behalf of any other house in the kraal, without creating an obligation on the part of such other house, to return the property so alienated or its equivalent in value. There is a duty upon the kraal head, to keep distinct the estates belonging to the various houses in his kraal, and to settle all disputes regarding the same.

69. The kraal head (when merely guardian) administers the general estate during the minority of the heir, and also such house property as may be in the kraal, for the benefit of the future kraal head and house heirs respectively.

70. Kraal heads may possess and preside over more than one kraal.

Law 19, 1891.
Schedule.

71. All the inmates of a kraal irrespective of sex or age, are under the control of, and owe obedience to the kraal head.

72. All the inmates of a kraal are minors in law, and are incapable of alienating kraal or house property, or of making contracts save with and by the consent of the kraal head. All contracts or liabilities contracted or assumed by the said minors are void, unless the kraal head is or was a party thereto by implication, or consent, or unless the act of the minor be for the benefit of the kraal, or of any particular house or inmate thereof. The exception to the above general rule is, that of married males or widowers related to the kraal head, or adult males not related to the kraal head, who although inmates of the kraal, and as such in all kraal matters and relations subject to the kraal head, are deemed to be majors in law, for the purposes of contracts, wrongs and injuries, and of suing and being sued in any judicial proceedings with respect to their own private transactions, dealings, or acts.

73. Kraal heads are responsible to their Chiefs and to the Supreme Chief, for the good conduct of the inmates of their kraals, and are civilly liable for contracts entered into by and for fines imposed upon or injuries committed by, any such inmates when acting as their agents, or under their instructions, or for their benefit, whether such inmates are of the kraal head's family or mere retainers (A).

74. Kraal heads rank as constables within the precincts of their own kraals, and are authorised to arrest summarily any person therein, committing, or reasonably suspected of committing or attempting to commit, any crime or offence against persons or property, or rioting or defying the authority of the kraal head, and to hand over the person arrested without delay to the Magistrate or Administrator of Native Law, together with a statement of the cause of arrest.

75. Kraal heads shall summarily arrest any Native bringing intoxicating liquor of any kind into their kraals, and shall forthwith deliver the person offending, with a statement of the charge to the Magistrate or Administrator of Native Law, and when possible the liquor or portion thereof so introduced. In the case of any person, not under the operation of Native Law, introducing liquor into a kraal, intending the same to be used by inmates of the kraal, the fact shall be immediately reported to the Magistrate or Administrator of Native Law.

76. Kraal heads may inflict corporal punishment upon the inmates of their kraals for the purpose of correction, and to maintain peace and order therein, and for any other just cause.

77. Any kraal head or guardian charged with the custody of persons or of kraal or house property, and who is charged with having acted foolishly or prodigally therewith, or in relation thereto, or is otherwise unfit may, upon application to the Native High Court, and upon sufficient proof of the allegations, be suspended from his position, office, and powers, and the estate, or property, or family may be placed under the control and administration for the time being, and pending further order, of some fit person as guardian to be appointed by the said Court.

78. The powers and privileges of a kraal head, may in any case in the discretion of the High Court (B), be vested in a woman.

(A) Where a native wilfully does a wrong act when he is not acting for the kraal head, the kraal property is not liable. The kraal head is only liable for contracts entered into or fines incurred or injuries inflicted by an offender acting as his agent or under his instructions or for his benefit under this section—*Mason, J., dissentiente (Sisimana v. Si-*

maki, 18 N.L.R., 56).

(B) Act 39, 1896, s. 7, sub-s. (a) (tit. "COURTS, SUPREME") provides that this discretion may be exercised by a Magistrate or Administrator of Native Law; but note that Act 39, 1896, is repealed by Act 49, 1898, s. 4, sub-s. (f) (tit. "COURTS, NATIVE") in so far as it is inconsistent therewith.

CHAPTER VII.

Land Tenure.

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[Sections 79 to 89, inclusive, repealed by Act No. 40, 1896.]

CHAPTER VIII.

Personal Status.

90. All natives are either kraal heads, or are subject to a kraal head. The only exception to this rule is the provision in Clause 72 in favour of married males or widowers related to the kraal head, or adult male inmates not related to the kraal head, who, as regards their private and personal dealings with third parties, are not subject to the kraal head, but remain so in respect of all kraal matters and transactions.

91. All natives living under Native Law may be classed as under :—

- Males. (a) Kraal heads, and therefore of full legal capacity to sue or to be sued.
- (b) Unmarried sons and unmarried male inmates of the kraal, subject to the kraal head in all matters, and incapable of suing or being sued in their own names.
- (c) Married males and widowers related to the kraal head, and adult males not related to the kraal head, but subject to the authority of the kraal head in respect of all kraal matters, and capable of suing or being sued in respect of their own private and personal dealings or transactions.

The relative rank of males in a kraal, is governed by that of their respective mothers.

- Females. (a) Unmarried daughters, divorced women, and unmarried female inmates of the kraal, subject to their fathers or guardians, and in all kraal matters to the kraal head.
- (b) Divorced women revert to their position as unmarried daughters.
- (c) Married women subject to their respective husbands, and in all kraal matters to the kraal head.
- (d) Widows subject to their guardians, and in all kraal matters to the kraal head.

92. A male inmate of a kraal, who is an adult or married, or a widower, may be emancipated by the kraal head, with the consent of his chief (A), and the approval of the Administrator of Native Law; such emancipation conveys the right to become a kraal head, to erect a separate kraal in the same or any other district, subject to any regulations made in that behalf, and to transact all the business of life, independently of his father or former kraal head. Such emancipated Native may elect to attach himself to some other kraal head, and thus become the inmate of some other kraal.

93. Males disinherited may join some other kraal head, or found new kraals.

† (A) Where the kraal head and the chief both refused to emancipate, the Supreme Court declined to interfere

(*Deyi v. Mbwezikazi and another*, 18 N.L.R. 227).

Law 19, 1891.
Schedule.

94. Females are always considered minors, and without independent power, except as provided for in Section 78.

95. Every child born of an unmarried Native woman, becomes a member of the house of the mother of such unmarried Native woman, and is subject to the head of the kraal. In the event of the father of any such child marrying the mother thereof, the child changes its position and becomes a member of the house established by such marriage. Every child born of a married woman, during the existence of the marriage, ranks as the child of the house of such married woman.

96. If a widow or divorced woman give birth to a child within ten months of her widowhood or divorce, such child becomes a member of the family of her late husband. If a widow or divorced woman give birth to a child after the lapse of ten months from her widowhood or divorce, such child, in the case of a widow, becomes a member of her late husband's family, and in the case of a divorced woman, becomes a member of the family of her father or guardian. In all cases where more than ten months have elapsed since widowhood or divorce, the children so born, change their position by the marriage of their parents to each other, and become members of the houses established by such marriage.

CHAPTER IX.

Inheritance and Succession.

97. Testamentary succession is unknown, and no Native may under Native Law make a will except under Law 12, 1864 (A).

98. Heirship under Native Law is of two kinds—

- (a) General, to kraal property (B).
- (b) Special, to house property.

99. The heir to kraal property is the eldest son of the chief house ("indhlinkulu"), or the person in law entitled to assume such position. He is also as general heir, liable for his father's general debts (c), and also for the debts of the chief house as special heir thereof.

100. The heir to house property is the eldest son of that house, and he also is as heir liable through the kraal head for all debts incurred by or for his house.

101. The rules for the devolution of kraal property, and for the succession to the status of a kraal head, upon the death of such kraal head, are as follows:—

The succession devolves upon males only.

The eldest son of the "Indhlinkulu," to the exclusion of all others, succeeds to the property and status of the kraal head.

Should he predecease the kraal head, and leave a son or sons him surviving, the eldest of such grandsons of the "Indhlinkulu" will succeed.

Failing such eldest son and all male lineal descendants through him, then the second son of the "Indhlinkulu" succeeds,

(A) See Act 7, 1895, s. 2, tit. "WILLS (NATIVES)."

(B) See Act 1, 1901.

(c) But only in so far as he has received property from the estate to meet the same (*Mutu v. Bovela*, 17 N.L.R. 357).

and failing him, his male lineal descendants in due order of seniority. Law 19, 1891.
Schedule.

Failing a third and all other sons of the "Indhlunkulu," and all male lineal descendants through them, the succession and status will devolve on the eldest son of the house first affiliated to the "Indhlunkulu," and failing such eldest son or male lineal descendants through him, then on the second son, or the male lineal descendants through him, and they failing, then on the third or other son or sons of such affiliated house and their male lineal descendants.

Failing all sons of the house first affiliated to the "Indhlunkulu," and all male lineal descendants through them, the succession and status will devolve on the eldest son of the house second affiliated to the "Indhlunkulu," and failing him, to the second or further son or other male lineal descendant of such son or sons, and so on, recourse being had to each affiliated house according to its order of affiliation, until a male is found upon whom will devolve the property of the kraal and the status of the kraal head.

102. Failing an heir in the "indhlunkulu," or in any house affiliated thereto, recourse will be had to the chief house of the left-hand side—i.e., the "qadi" house, for a general heir, and failing there, then to the affiliated houses in succession of dates of their affiliation to the chief "qadi" house. In the event of the failure of such heir in all the left side houses, recourse will be had to the right side, commencing with the chief "kohlo" house, and afterwards the affiliated "kohlo" houses in succession.

103. In the case of failure of heirs on the "qadi" and "kohlo" sides of the kraal, recourse is had to the kraal head's eldest brother of the full blood, and thence in sequence as stated in Sections 101 and 102. Upon failure of a kraal head's brothers and half-brothers or their male issue, recourse is then had to the paternal grandfather, and so on in like manner until the male lines of next-of-kin either of collaterals or ascendants, as aforesaid, are closed.

104. In the event of a failure of a house heir in any house other than the "indhlunkulu" and where no house has been affiliated thereto, recourse for an heir will in like manner as before stated be had to the chief house on the same side of the kraal as that on which the heirless house is situate, and on failure thereof to the lower houses of such side, and upon failure of such houses, to the "indhlunkulu" heir, who is the eventual heir of both the "qadi" and "kohlo" sides of the kraal, when either or both these sides are heirless.

105. The mere fact of a house being affiliated to a superior house does not affect the property and property rights of such affiliated house.

106. Succession to house property on decease or lack of heirs within the kraal is regulated by the same rules as succession to kraal property.

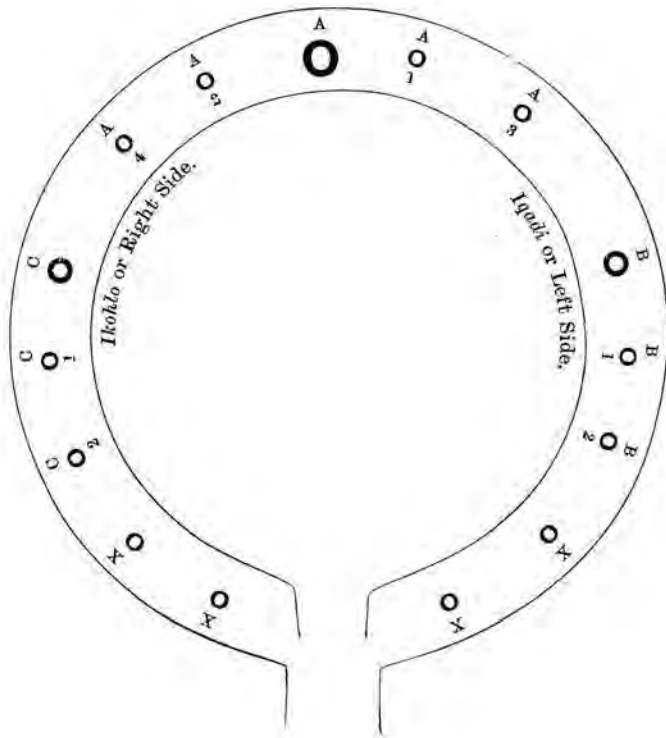
107. Failing male heirs, kraal and house property reverts to the Supreme Chief, and the females of the family or kraal, come under the guardianship of the Supreme Chief, or of such fit and proper person, being a Native, as he may appoint.

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Schedule.

108. THE KRAAL FAMILY SYSTEM.

- A *Indhlunkulu*.
- A 1, 2, 3, and 4, houses affiliated to the *Indhlunkulu*.



- B Chief *Iqadi* house.
- B 1 and 2 houses affiliated to the chief *Iqadi* house.
- C The Chief *Ikohlo* house.
- C 1 and 2 houses affiliated to the chief *Ikohlo* house.
- X Huts in the kraal, but not having the family status.

The above diagram represents the plan upon which a kraal may be arranged, and elucidates the principles and rules by which all questions of succession and inheritance are determined in kraals composed or formed of these various sections. A kraal may consist of four sections, viz., that of the "indhlunkulu," the "qadi," the "kohlo," and of mere retainers.

109. The sides of a kraal are, as viewed from the head of the kraal, facing the gate, and are divided into right and left sides.

110. OA in the above diagram represents the "indhlunkulu," and the houses of OA 1, 2, 3, and 4 are those of wives taken by the kraal head and whose houses have been affiliated to the "indhlunkulu." The "lobolo" of the wives in houses OA 1, 2, 3, and 4 is invariably taken from either the house property of the "indhlunkulu," or from the kraal property of the kraal head.

111. OB in the above diagram represents the chief house on the left-hand side of the kraal, and is known as the "iqadi." As a rule the "lobolo" of the wife in this house is taken by the kraal head

out of kraal property. The houses OB 1 and 2 represent houses which have been affiliated to the "iqadi" house. Law 19, 1891.

112. Oc in the above diagram represents the chief house on the right-hand side of the kraal, and is known as the "ikohlo." The establishment of this house, and of the section of the kraal affiliated or junior to it, is unusual among commoners, and is principally confined to the kraals of Chiefs, and others of position and substance. Schedule.

113. The "lobolo" cattle taken and used by the kraal head for the founding of houses OB and Oc, constitute a liability of the said houses to the "indhlinkulu." This liability is not claimable, nor are the cattle accounted for to the "indhlinkulu," until the receipt of the "lobolo" of the daughters of the respective houses OB and Oc who may be first married. If such liability is not accounted for during the lifetime of the kraal head who used the cattle for "lobolo" purposes, it has to be accounted for by the house heirs of OB and Oc respectively.

114. The same principles will apply to any other houses founded with "indhlinkulu" cattle.

115. Kraals may be composed of houses not known as the "qadi" or "kohlo." In such cases the houses, where not affiliated, are independent of each other, and rank according to the date of their establishment by marriage. In kraals thus composed, should the chief wife die during her husband's life time, the wife next in rank to her, becomes the chief wife, but without prejudice to the children, if any, of the deceased wife; and should there be a failure of heirs in any junior house, the heir of the chief house, becomes the heir of such heirless house.

116. The junior houses of a section, whether "indhlinkulu," "qadi," or "kohlo," "etula" to the respective chief house of their section.

117. A separation of the various sections of a kraal takes place when directed by the kraal head, subject to any regulations with respect to such removals or the number of houses composing a kraal.

118. Any such division, as in the preceding section is mentioned, of a kraal in no way impairs the control, direction, rights or authority of the kraal head, who during life is the responsible head and sole authority equally in his kraal, or in the sub-kraals created by such separations.

119. Upon the death of the kraal head the "indhlinkulu" heir becomes the kraal head of OA and its junior and affiliated houses, and of all other houses remaining in the kraal.

120. Should the section OB have been separated and made a sub-kraal, then upon the death of the kraal head the heir of OB becomes the kraal head of OB and its junior and affiliated houses; and in like manner the heir of the Oc section in cases of separation becomes kraal head of the Oc sub-kraal.

121. Any kraal property which upon the death of the kraal head is found either in the chief kraal, or any of the sub-kraals without having been specially apportioned, is the property of the "indhlinkulu" general heir.

122. Upon the death of the kraal head the property, rights and claims of the different houses remain with the several heirs thereof.

123. Succession and inheritance in the families of hereditary Chiefs in charge of tribes, are determined in like manner as with commoners, except as to the house of the chief wife. The chief wife of such Chiefs is generally taken later in life than the first or second wives of the Chief. Her "lobolo" is usually made up wholly or in part by the tribe, and her status publicly announced. Chief wives of Chiefs generally hold and own property in cattle, the gift of their fathers,

Law 19, 1891. and hold it and use it at will in the husband's kraal, with descent
Schedule. thereof to the heir of their house.

124. In the event of a hereditary Chief in charge of a tribe dying, being the husband of several wives, but not having taken his chief wife, it is the duty then of the elders of the tribe, to assemble and decide upon and confer status upon the widows, appointing the chief wife, the "qadi," the "kohlo," and minor houses, or in other approved and lawful manner fixing the rank of each house. The wives of a hereditary Chief are not given status until the assumption of a chief wife. The status of the wives or widows of hereditary Chiefs having thus been declared, succession and inheritance are upon the same lines and principles as in the case of commoners.

125. With Natives other than hereditary Chiefs in charge of tribes, the wife first married is the chief wife, her house is the "indhunkulu," and her eldest son is heir, not only to any special house property of the "indhunkulu," but to all the kraal property (A).

126. Wives married subsequent to the first wife, rank according to the kraal status publicly announced on the day of marriage.

127. Children being idiots or insane, do not rank as heirs, but their support is a charge upon the heir of the house to which they belong by birth.

128. In the event of the kraal head dying and leaving widows, either in the Chief kraal or sub-kraals, the "lobolo" received upon their re-marrying, shall be accounted for to the house which any such widow leaves, for the purpose of re-marrying.

129. In the event of a widow, electing to follow the custom of "ukungena," the issue of such a union ranks in her house as if born during the lifetime of her deceased husband for the purpose of inheritance and the like; ~~provided that no such union shall be allowed or recognised, should any male issue of the deceased husband be living at the time of his death~~ (B).

130. [Repealed by Act No. 40, 1896.]

131. [Repealed by Act No. 40, 1896.]

132. Kraals are generally composed of the relatives of the kraal head, but many kraals contain foreign houses on sufferance. A poor relation, married or single, may have his house and property in the kraal; a destitute Native, often without kith or kin, may for services rendered to the kraal, receive in return the use of some milch cattle, and a right to occupy a house in the kraal. As a rule, such houses being foreign and inferior, are placed at the sides of the kraal gate, as shown in the diagram in Section 108.

133. Destitute girls or women, rank as wards of the Supreme Chief as upper guardian.

134. Upon the slaughter of an ox or other head of cattle, the property of a house in a kraal for food or feasting, the "insonyama umhlabulo" are the perquisites of other houses according to their status, and afford proof thereof.

135. Should the "indhunkulu" kill the ox or other head of cattle, the "insonyama" is retained or sent to the Chief.

136. These perquisites are not enforceable at law.

137. Assistance rendered by a kraal head to any of his sons from kraal property, in obtaining for him a wife, by contributing the whole or portion of her "lobolo" is a gift, and creates no debt to the

(A) See the following cases decided in the Supreme Court, and bearing upon this section:—*Fodo v. Umishozi*, 17 N.L.R. 240; *Ngege v. Zwelinjani*, 18

N.L.R. 135, and *Ucqwetsha v. Gobela*, 19 N.L.R. 12.

(B) The proviso to this sec. is repealed by Act 40, 1896, s. 4, post.

“indhlunkulu” house, unless the contrary was clearly stated at the marriage of such sons. Law 19, 1891.
Schedule.

138. The earnings of the members of each house belong to the kraal head, and are disposable by him, chiefly for the benefit of such house. He may demand and can claim, that all such earnings be handed over to him, and in their disposal he is allowed much freedom and a wide discretion, but not so as to benefit one house at the expense of another. It is usual for the sons of each house to earn the money necessary for the hut and other taxes.

139. Younger sons are usually assisted by the kraal head in the matter of the “lobolo” of their first wife, and younger brothers also are usually assisted by the eldest brother or heir to their house, with the approval of the kraal head (A).

140. Sons who refuse to be controlled by the kraal head, or who have disgraced or are disgracing their family, or for other sufficient cause, may be disinherited by the kraal head, acting in conjunction with, and subject to the sanction of, his Chief (B). Notice of the enquiry to be held before the Chief must be given to the son, who may appeal against any decision disinheriting him to the Administrator of Native Law. Every case of disinheriting must be notified to, and registered by the Administrator of Native Law, and from the date of such registration, the kraal head is relieved from all liability for any action of the disinherited son, but without such registered notice, the kraal head remains liable in accordance with the provisions of this Code in that behalf, for the son’s acts, engagements, and liabilities. Re-instatement of disinherited sons may take place upon the application of the kraal head to the Chief.

141. Any son so disinherited becomes absolutely without status, voice, or claim in regard to the family or property of his house or father’s kraal.

142. Upon the marriage of a girl, her father may give her goods or cattle, and such dowry becomes the property of and belongs to the house established by her marriage, subject to any claim by the “indhlunkulu” against such dowry.

143. Although she may acquire and hold property for the use of her house, a female can neither inherit nor bequeath.

144. The “indhlunkulu” is entitled to receive one of the “endisa” or dowry oxen of all marriages of girls of other houses in the kraal. The right ceases when there is only one “endisa” ox.

145. The custom of “ukwetula” is not universally acknowledged or practised by the Natives of this Colony. Those who do practise it, consider it to be a family offering to the “indhlunkulu” of the cattle received at the marriage of the first married daughter of a junior house, in recognition of the position and claims of the “indhlunkulu,” and as a means of providing it with property to meet the various claims and demands it is liable to, for hospitality, for assisting younger sons in getting married, for maintaining sick and destitute members of the family, and for other general kraal purposes. With this statement regarding the custom, it is declared that henceforth its observance is optional; that those who observe it are at liberty to do so; but that its observance shall not be enforced by any Court of Law.

(A) This section does not impose any legal liability on the father (*Myaisa v. Nkanise*, 17 N.L.R. 348).

(B) A chief cannot disinherit his son under this section, though he may be entitled to do so under the common law (*Puputi v. Manzini*, 19 N.L.R. 170).

Law 19, 1891.

Schedule.

CHAPTER X.

Marriage.

146. Every marriage entered into in this Colony, between Natives according to native law and custom, as defined in this Code, shall be deemed to be and is valid and binding, and all questions arising out of such marriages shall be dealt with, under and by the provisions of this Code, and not otherwise.

147. Marriage in Native Law is a civil contract entered into by and between the intended spouses, assisted where necessary by their respective fathers or guardians. Those males who by this Code are declared to be capable of entering into contracts on their own behalf, need not be assisted in entering into contracts of marriage. The contract is for life, unless valid cause for divorce, or for annulling the marriage, intervenes.

148. The essentials of a Native marriage according to Native Law are the following:—

- (a) The consent of the father or guardian of the intended wife. Such consent may not be withheld unreasonably.
- (b) The consent of the father or kraal head of the intended husband, should such be legally necessary.
- (c) The declaration in public by the intended wife to the Official Witness on the marriage day, that the proposed marriage is with her own free will and consent.
- (d) [Repealed by Act No. 13, 1894.]

149. Whenever a marriage is agreed on between a Native man and a Native woman, the day fixed for the celebration of such marriage shall be reported by the kraal head concerned to his Chief or to the District Headman, who shall direct the Official Witness to be present at the time and place of the celebration of such marriage.

150. At an early part of the ceremony the Official Witness shall publicly ask the woman about to be married whether it is of her own free will and consent that she is about to be married to the man, who proposes to become her husband. Should the woman decline to announce her consent, or should she declare her dissent, or should she appear to the Official Witness to be unwilling to proceed with the intended marriage, the Official Witness shall at once prohibit the further proceeding of the ceremony, and, if necessary, shall take the woman under his protection, and forthwith report the matter to the Administrator of Native Law for such action as may be necessary.

151. It shall be the duty of the Official Witness and the husband, to proceed within thirty days after the celebration of any marriage, to the office of the Administrator of Native Law, for the purpose of registering the same, and the particulars in connection therewith, in the register kept for the purpose. And it shall be the duty of the Administrator of Native Law forthwith to register the same: Provided that the Administrator of Native Law, may after the expiry of thirty days from the marriage, upon cause being shown for the delay, proceed to register any such marriage.

152. The withholding of consent to a marriage, may form the subject of a complaint to, and inquiry by, the Administrator of Native Law, and should that officer after due inquiry be satisfied that no just impediment exists thereto, his order will take the place of the consents referred to in Sections 147 and 148 of this Code.

153. A man may marry the sister of his wife.

154. [Repealed by Act No. 40, 1896.]

155. Either party to a marriage by Native custom, and which is registered in due course, shall be given, upon registration by the registering officer, a certificate of the marriage free of charge.

156. The marriages of Natives according to Christian rites, are subject to the provisions of Law 46 of 1887. Law 19, 1891.
Schedule.

157. At a convenient time during the marriage ceremony, the bridegroom, or his father, or his kraal head, or the person who has contributed the "lobolo" of the marriage, shall publicly declare to the Official Witness the source or sources from which such "lobolo" was taken or obtained, with the view of then and there clearly ascertaining and determining the following information, that is to say:—

- (a) Whether in respect of the "lobolo," a debt rests upon the house about to be established by the marriage.
- (b) In the event of there being a debt, the amount thereof, and to whom, or to what other house it is due.
- (c) At what time and in what manner, and from what source the debt, if any, has to be discharged.

158. It shall be the duty of the Official Witness when attending before the Administrator of Native Law for the purpose of registering any marriage, to furnish all the information which has been publicly declared to him as aforesaid, regarding the "lobolo" of every such marriage, in order that it might be placed upon record in connection with, and as a part of the said registration. In cases where it is declared that no debt rests upon any house upon its establishment, an entry of such declaration shall in like manner be made in the marriage register.

159. Marriage registers shall, at all convenient times, be open for the inspection or information, free of charge, of persons interested in any entry therein.

160. The accuracy of any entry in the marriage registers, relating to obligations upon houses created by or at their establishment by marriage may be impeached by any person having a direct interest in such entry, at any time within six months from the date of making such entry, but not afterwards, except in cases of proved falsity in connection therewith, and all such complaints shall be enquired into and determined by the Administrator of Native Law.

161. Every person who shall make, or cause to be made, for the purpose of being inserted in any register, any false statement or declaration, touching any of the particulars required to be registered relating to the said obligations upon houses, shall be deemed guilty of the crime of falsity.

162. Marriage registers, or copies of any entries therein, certified by the Administrator of Native Law or by the Secretary for Native Affairs, shall be received as conclusive evidence in all Courts of Law under this Code, of the matters or things therein recorded.

CHAPTER XI.

Divorce, and Annulment of Marriage.

163. The grounds upon which a husband can maintain a suit for divorce are:—

- (a) Adultery.
- (b) Continued refusal to render conjugal rights.
- (c) Wilful desertion.
- (d) Continued gross misconduct.
- (e) Becoming the subject of any criminal sentence carrying five years' imprisonment.

Proof of the husband's connivance may negative any charge made by him against his wife of adultery.

Law 19, 1891.
Schedule.

164. The grounds upon which a wife can maintain a suit for divorce are :—

- (a) Adultery.
- (b) Cruelty or ill-treatment.
- (c) Wilful desertion.
- (d) Continued refusal to render conjugal rights.
- (e) Becoming the subject of any criminal sentence carrying with it five years' imprisonment.
- (f) Continued absence for a period of five years.

165. A woman suing for divorce, may do so if duly assisted by her father, or the person who would have been her guardian, had she remained unmarried.

166. A wife who seeks divorce shall, on leaving her husband's kraal, forthwith seek the protection of her father or other relative, which protection may not be withheld; and upon declaring her refusal to live with her husband, and her intention to seek divorce, her father or his representative, or her guardian, shall, as soon as may be, attempt to reconcile the parties, and in case of failure he will at once notify the same to the Chief, who shall forthwith require the presence of both the husband and the wife before him, and should the Chief fail to reconcile the parties, then, and not otherwise, the father or guardian of the wife shall accompany her to the Court having jurisdiction, to apply for a divorce. In like manner, a husband seeking a divorce, must notify his intention to his Chief, and to the father or former guardian of his wife. Proof of such attempts at reconciliation must be given to the Court before divorce can be granted (A).

167. In the event of a woman being destitute seeking divorce, or in the absence of refusal of relatives whose assistance she could legally claim, it is competent for the Court having jurisdiction upon application of the woman or upon knowledge of her case, to appoint a guardian for the purposes of her case, and who, when appointed, shall act in accordance with the preceding section.

168. In all cases of dissolution of marriage, whether upon actions for divorce or nullity, there shall be a return of cattle or their equivalent, by the father or guardian of the woman to the husband: Provided that in cases where a dissolution of marriage has been decreed at the suit of a wife, by reason of the wrongful acts or misdeeds of her husband, no return of cattle or their equivalent shall be made.

169. Upon the granting of every decree of divorce, the Court shall clearly direct and order :—

- (a) That the divorced wife shall, until re-marriage, be under the guardianship and control of her father, or the person who in law occupies his place, and that she reside at her guardian's kraal, or such other place as the guardian may appoint.
- (b) With whom the custody of the young children of the marriage is to remain, with provision if necessary for their maintenance.
- (c) The number of cattle, if any, to be given back by the woman's father or guardian to her husband.

170. When divorces are granted, the custody of the children remains with the father, unless the Court granting the divorce makes a special order for their custody, or any of them, upon the special facts of the case; and, in the case of young children the Court may allow them to be taken with their mother into the care of her father or guardian, until they are over six years old, when their own father may reclaim

(A) See *Manjwembe v. Willem*, 16 N.L.R. 24.

them. In the case of their father's proved unfitness to maintain them, a special guardian over them may, upon the application of any person interested, be appointed by the Court having jurisdiction. Law 19, 1891.
Schedule.

171. Upon the re-marriage of a divorced woman, the "lobolo" in respect of such marriage, shall be delivered to her father or guardian for the use of the house to which she belonged. Should no cattle have been returned by the father or guardian upon the divorce, by reason of the misdeeds of her husband, the cattle payable as "lobolo" in respect of her future marriage, shall in no case exceed five head of cattle, or their equivalent.

172. The extent of each "lobolo" of a divorced woman or widow upon re-marriage, is fixed, in case of dispute, by the Administrator of Native Law.

173. A declaration for the nullity of any marriage may be applied for, and obtained by, or on behalf of, either party thereto, upon any of the following grounds:—

- (a) Insanity at the time of marriage.
- (b) Impotence, or other permanent physical cause, preventing consummation of the marriage.
- (c) The absence of any of the essentials of a marriage as defined in Section 148.
- (d) Where the woman was at the time of the marriage, the lawful wife of another man.

In all cases where a declaration of nullity has been granted, the Court granting the decree, shall order the refund of the "lobolo" together with the actual increase of the cattle, and also the actual expenses incurred, including the "ingqutu" beast, in and about the celebration of the marriage.

174. Actions for divorces and for the annulment of marriages between Natives married according to Native Custom, must be instituted in the Courts of the Administrator of Native Law.

175. Actions for divorces and for the annulment of marriages between Natives married according to Christian rites, previous to the operation of Law 46, 1887 (A), must be instituted in the Native High Court.

CHAPTER XII.

Lobolo.

176. Independent of the natural duty existing in the matter, the person to whom any "lobolo" is delivered is bound, by the receipt thereof, and in case of his death the heir of the house receiving the "lobolo," should just occasion require, to befriend and give asylum to the woman in validation of whose marriage the said "lobolo" was delivered.

177. All the "lobolo" must be delivered on or before the day of marriage. If any cattle are delivered before that day they shall be considered and treated as "sisa" cattle, and any increase or decrease in such cattle, previous to the day of marriage shall be the profit or the loss of the person delivering the "lobolo." Should any of the "lobolo" cattle die within fourteen days after the marriage, the cattle so dying shall, if duly reported, be replaced by the person on whose behalf the delivery was made.

178. No higher "lobolo" shall be given or claimable than the following, in respect of the marriage of any girl or woman being a daughter of any of the persons hereinafter enumerated:—
Hereditary Chief in charge of a tribe.—No limit.

(A) See tit. "MARRIAGE (NATIVES)."

Law 19, 1891. Appointed Chief in charge of a tribe.—Twenty head of average cattle or their equivalent.

Schedule.

The son, brother, or uncle of a Hereditary Chief, such Chief being in charge of a tribe.—Fifteen head of average cattle or their equivalent.

District Headmen and Official Witnesses.—Fifteen head of average cattle or their equivalent.

All other Natives.—Ten head of average cattle or their equivalent.

It is permissible for the whole or any part of the "lobolo," to be represented by other property instead of cattle, as the parties may arrange and determine.

179. The "lobolo" for a girl or woman who is a ward, is determined according to the rank or position of her father, and in all cases of doubt the number of cattle must not exceed ten head or their equivalent.

180. The Administrator of Native Law, or Chief, shall seize any cattle or other equivalent given by the husband in excess of that allowed by the preceding sections 177 and 178, and should the Chief make the seizure, he shall forthwith report the same, and the number and description of cattle or other property seized, to the Administrator of Native Law for his adjudication thereon, and the Administrator of Native Law, should he confirm the said seizure, is authorised to award a portion not exceeding one-half to the Chief or other informer.

181. In the event of any wife dying within a year after the day of her marriage, and leaving no issue of such marriage, the husband of the wife so dying, is entitled to recover from his late wife's father or guardian a portion of the "lobolo," not exceeding three-fourths of its original value or number. Should there be issue of the marriage surviving after the death of any wife so dying, none of the "lobolo" is reclaimable.

182. Subsequent to the 31st day of December, 1893, no action may be instituted in any Court for the recovery of "lobolo," or inheritance arising out of "lobolo" claims, in connection with any marriage entered in before the date of the promulgation of this Code (A); and no action may be instituted at any time or before any Court for the recovery of "lobolo" in respect of marriages entered into after the promulgation hereof (B).

183. In all cases of the first marriage of a woman the "umqolosi" or "ingqutu" or "mumba" beast is in addition to the "lobolo," and is given to the bride's mother by the intended husband (c). Its return cannot be claimed upon the dissolution of marriage by divorce. This beast or its equivalent is not given upon the marriages of widows or divorced women.

CHAPTER XIII.

Guardianship.

184. Upon the death of a kraal head, should the general heir be too young to be a kraal head, the kraal comes under the temporary care of the eldest surviving paternal uncle, or paternal grandfather of the general heir. Such guardianship ceases upon the future kraal head reaching an age when, in the opinion of his Chief, or, if need be, the Administrator of Native Law, he is capable of administering the affairs and business of the kraal and assuming control thereof.

(A) An action for cattle lent by one brother to another to assist the latter to lobola a wife is not barred by this sec. (*Ukwekwana v. Matyana*, 19 N.L.R. 152).

(B) See Act 13, 1894, s. 1, post.

(C) The bride's mother may dispose of the *ingqutu* beast as she thinks fit (*Ponjwana v. Hlela*, 17 N.L.R. 332).

185. Although the guardianship of minors usually rests in their paternal uncles or grandfathers, or other male adult relations, the Court of the Administrator of Native Law having jurisdiction, may appoint any suitable person to be guardian of a family or estate, should occasion require. Law 19, 1891.
Schedule.

186. Any person assuming, or having been appointed to, the guardianship of the estate of a minor, shall be responsible for the due and faithful administration of the same.

187. If any person who shall be heir to, or have acquired, property, shall be alleged to be incapable of managing his property through insanity, or idiotcy, or otherwise, the Native High Court (A) shall, upon any such case coming to its notice, or upon application, take immediate steps to cause the parties to be brought before the Court, and if satisfied of the truth of the allegations, shall make such order as the Court may think fit, as to the management of the estate of the incapable person. Such person may be placed under guardianship, and be restrained from the management of his own affairs.

188. In the case of any adult male Native having children and property, being sentenced to imprisonment for a longer period than one year, the kraal head shall assume the guardianship of such children and property. Should a kraal head be sentenced to imprisonment for a longer period than one year, or be absent from the Colony for a longer period than one year without providing for the management of his affairs, and there is need for the appointment of a guardian over his property and family, the Administrator of Native Law in consultation with the Chief of the Native so imprisoned or absent, may appoint a guardian of his family, and property, who shall be responsible for the due and faithful charge of his family and administration of his property.

189. In all cases for the recovery and custody of minors by their guardians, application may be made to the Administrator of Native Law, who shall have power, after inquiry, to make such order as may seem to be just and necessary.

190. It is lawful for every parent, or person in the place of a parent, to use force by way of correction towards any child or ward under his care, such force and correction to be reasonable under the circumstances.

191. Guardians may claim out of the estate under their charge, a reasonable remuneration for the care and diligence in the management of the estate, and for the custody of the persons placed under them: Provided that such remuneration shall not exceed in ordinary cases one-twentieth, and in extraordinary or unusually difficult cases one-tenth, of the value of the property entrusted to or administered by them.

CHAPTER XIV.

Medicine Men and Herbalists. (B)

192. Medicine men and women are allowed to practice for gain. They are known either as "izinyanga zo kwe lapa," i.e., "those skilled in healing," or "izinyanga zemeti," i.e., "herbalists," and on being called in are entitled to a fee known as "ulugxa," which ranges from 2s. 6d. to 10s. Should a cure result a further payment is claimable, and failure to cure is not followed by any payment beyond the call fee.

(A) Where the value of the property or inheritance is less than £50 or 30 head of cattle, see Act 39, 1896, s. 7, sub-s. (b) tit. "COURTS (SUPREME)"; but observe also the footnote to the sec.

(B) Act 21, 1899, s. 33 (tit. "MEDICAL PRACTITIONERS") provides that nothing in that Act contained shall in any way interfere with Native doctors licensed to practise under the Code of Native Law.

Law 19, 1891.
Schedule.

193. Blunders or negligence of medicine men, women, or herbalists entailing bad results, lay the party causing such results open to an action for civil damages, independent of any criminal charge which may lie against them.

194. No medicine man, woman, or herbalist may practise his or her calling for hire, unless licensed by an Administrator of Native Law so to do.

195. No medicine man, woman, or herbalist shall receive a license to practise as such, unless the application is approved by the applicant's Chief or by the Chief in whose tribe he or she wishes to practise or reside.

196. Any person, whether a licensed medicine man, woman, or herbalist, or not, offering for sale or barter, or publicly professing to possess for sale or use, love philtres, or charms, shall upon proof thereof to the Administrator of Native Law, have his, or her license, if any, cancelled, and the Administrator of Native Law may confiscate and destroy the love philtres and other similar articles found in the possession of any such Native, and this may be done irrespective of any criminal liability attaching to such Native.

197. The annual license for practising as a medicine man, woman, or herbalist shall be £3, and the one license shall admit of the holder practising as the one or the other, or both throughout the Colony, and for one year from the date of the issue thereof.

198. Any Native practising as a medicine man, woman, or herbalist without a license shall, upon conviction before the Administrator of Native Law, be liable to punishment by fine, or to imprisonment upon default of payment thereof; and all such unlicensed Natives are debarred from recovering any fees, claimed to be due in respect of their services as medicine men, women, or herbalists.

199. Females being acknowledged midwives or medicine-women, act merely as agents, and their earnings belong to their special house, and can only be recovered at law by their principals. All debts contracted by these women in the course of their trade or calling, are the debts of their principals.

200. Women acting as midwives do not require to be licensed to practise as such.

CHAPTER XV.

Civil Damages.

201. Courts of Law must exercise a judicial discretion in awarding damages, and in fixing the amount thereof.

202. In actions before any Court for damages for slander or other injuries, it is not essential to claim any specific sum, the Court being left to fix the amount thereof.

203. Defamation of character gives a civil remedy in damages against the defamer. Every malicious statement, alleging evil conduct on the part of any person will constitute defamation: Provided that should anyone make an aspersion upon the character of another in the course of a heated quarrel, and within a short period thereafter publicly withdraw and publicly apologise for the same, no claim in damages will lie: And provided further that no action for defamation will lie, if the words used were addressed to any person in authority, with reference to the plaintiff or complainant, in good faith, and not with express malice.

204. Any unmarried girl, whose chastity has been publicly denied, scoffed at, or impeached by any person, is entitled to receive one head of cattle by way of compensation for the slander, from the kraal head

of the slanderer. The custom of girls so slandered, seizing or killing the cattle of their slanderers is prohibited. Law 19, 1891.
Schedule.

205. The destruction of crops by cattle will give an action for damages to the kraal head owning the crops, against the kraal head owning the cattle, unless the crops so damaged were planted on common pasture land.

206. Grass fires causing damage to others through negligence, gives an action in damages against the kraal head of the person causing the fire.

207. Trespass on cultivated land gives no right to civil damage, unless the trespass is accompanied by specific damage.

208. The seduction of a girl gives to her kraal head or guardian, a civil claim in damages against the kraal head of the seducer irrespective of any criminal liability of the seducer.

209. Any Native committing adultery with a married woman, living with her husband, shall, irrespective of any criminal liability, be liable in civil damages to the injured husband: Provided that upon proof of the connivance of such husband, no such civil action will lie.

210. Any Native husband claiming a divorce from his wife on the grounds of adultery, may, where the party committing the adultery is known, sue such party for damages concurrently with the adultery suit, and in the same action.

211. Any person abducting the wife, child, or ward of another, or inducing the wife, child, or ward of another to leave her kraal without the consent of her husband, father, or guardian, shall be liable in civil damages to the husband, kraal head, or guardian of the person so abducted or induced to leave: Provided that no action will lie, if the absence is only in connection with a betrothal visit of a girl, to the kraal of a proposed future husband.

212. The kraal head or owner of any bull or dog or other animal or thing causing damage to others, is liable in damages to the person injured; and the Administrator of Native Law upon complaint duly made and heard, may order the destruction of any dangerous or noxious animal, and the removal or abatement of that which caused the damage.

213. [Repealed by Act No. 37, 1896.]

214. Wrongful acts or wrongful omissions of any wives, children, or other inmates of any kraal causing damage to others, give an action in damages to the party damaged against the kraal head of the party in the wrong (A).

215. No inmate of a kraal may sue the kraal head in damages, but any inmate may charge the kraal head with a criminal offence, or may apply to the Administrator of Native Law to be removed from the control of the kraal head, or for such other relief as the Administrator of Native Law may deem just.

216. The illegal act of any Chief or District Headman, gives a right of claim to civil satisfaction in damages to the aggrieved party, who may sue for the same in any Court having jurisdiction.

217. Any Native claiming to have suffered damage or wrong, at the hands of the Native messengers or officers of any Court, may sue therefor before the Administrator of Native Law having jurisdiction.

218. [Repealed by Act No. 40, 1896.]

CHAPTER XVI.

Civil Procedure.

219. Native good manners and respect to authority require the observance of the following rules:—

(A) See *Sisimana v. Simaki*, 18 N.L.R. 56, and note to section 73, ante.

Law 19, 1891.
Schedule.

- (a) That the supreme salute and recognition of "Bayete!" be accorded to the Supreme Chief, the Secretary for Native Affairs, the Judges of the Court of Appeal, and the Judge of the Native High Court.
- (b) That the recognition of "Inkosi" be accorded to the Administrators of Native Law, Chiefs, and other Superior Officers.
- (c) Every Native, on entering the presence of a Court, Chief, or Officer, should salute the Superior Officer present with uplifted right hand and uncovered head, and likewise on leaving he should salute in a similar manner.
- (d) Persons bringing sticks or weapons into Court, or into the immediate presence of Chiefs or Superior Officers, are deemed guilty of unbecoming behaviour, and may be punished for contempt.
- (e) Persons stating their case or complaint in Court, or before an Officer, ought to be allowed to do so in their accustomed way—i.e., by sitting on the ground.
- (f) Inferiors always salute first, and the superior acknowledges the same.
- (g) While the Judge, Administrator, or Chief is speaking, it is not allowed to any one to interrupt, but on conclusion any person, by invitation or permission, may shortly give an opinion on any point at issue. No such opinions are given or remarks made after judgment has been finally given.
- (h) No person giving evidence in a case can be questioned otherwise than by the Court, or by the opposite party save by permission of the Court.
- (i) Upon judgment being given the parties salute the Court and retire.

220. Claims for increase of cattle and other stock shall not be allowed, except in the following cases:—

- (a) Where it is proved that the defendant has agreed to allow increase, or admitted his liability to account for the same.
- (b) Where there has been actual or constructive delivery of breeding cattle or other stock, but which have been allowed to remain with the defendant, their progeny living at the date of the action will be allowed.
- (c) Where there has been a deposit or placing of cattle, or other stock, such as is done in cases of "Sisa," the increase of such cattle or other stock will be allowed.
- (d) Where guardians have used for their own purposes the cattle or other stock of their Wards, the increase of the same will be allowed.

221. Interest is unknown in Native law, and parties without exception claiming interest as having accrued upon any debt or claim, will have to prove a distinct contract to pay the same.

222. No claim for interest may in any case amount to more than the original claim yielding the interest.

223. Upon any civil judgment being given, and the return therefrom upon execution being insufficient, the balance of such judgment shall, till paid, bear interest at the rate of 6 per cent. per annum upon the value thereof.

224. A cow in calf is reckoned as one beast.

225. Any plaintiff in a suit may apply, with or without notice, for an order interdicting the defendant from parting with any property

then in his possession pending judgment, and any property so interdicted may not be validly alienated until the interdict is removed. Law 19, 1891.
Schedule.

226. No civil action can be brought before any Court of Law, by or against a female (unless she be a kraal head) except in the name of and as duly assisted by her guardian.

227. Upon the giving of a judgment against a kraal head, all the property in or belonging to such kraal at the date of the judgment is liable to seizure and attachment, whether the same be in the kraal or removed from it, or otherwise parted with since such date, or parted with before such date with intent to defeat judgment; provided that upon satisfactory proof being given before judicial sale or settlement, that any of the cattle attached did not at the date of seizure belong to such kraal head, the Court will order the release thereof.

228. Where the judgment of any Court shall be for the payment of a certain number of cattle, or sheep or goats or other specified property, the defendant, or in case of execution, the messenger shall tender to the party, entitled by the judgment to receive them, the things specified, in satisfaction thereof, and in the event of any dispute as to the value or quality of such animals or things, the Court may upon application, summarily make such order as may seem just, and any such order shall form part of the judgment on record.

229. No judgment in the nature of a provisional sentence shall be given by any Court, by reason of the defendant's absence or otherwise. Should the defendant fail to attend in answer to the summons in the action, the Court shall order the issue of a special notice upon him in person, directing his attendance under penalty for contempt, and intimating that judgment may be recorded against him should he still fail to appear (A).

CHAPTER XVII.

General Provisions.

230. Native women and girls are not to be deemed, or treated in any way, as mere property or chattels, notwithstanding any property rights, which may be connected with, or arise out of their marriages.

231. In claims arising out of "Sisa" cases, the party to whom the cattle were given under "Sisa," must satisfactorily account for the original number, and all increase, when called upon so to do; he may not set off any deaths, unless he has proof that he notified the deaths to the owner of the cattle, or otherwise duly accounted for the same. The person with whom "Sisa" cattle are placed is only entitled to the use thereof. It is customary, however, for the owner of the cattle to gift a beast occasionally from the increase, but no claim at law can be made for this without proof of a contract to give.

232. Cattle or other stock sold or bartered, are taken as guaranteed by the seller, to be free from latent disease, for fourteen days from day of sale; and articles sold or bartered are taken as guaranteed by the seller, to be free from latent flaw or defect, unless the party selling or bartering has contracted with the party buying or bartering, that such presumption of law is specially abrogated.

233. Cattle or things sold by one Native to another Native, are understood to be sold for cash, unless there is a special contract for credit. Where the sale has been for cash, the seller upon failure of the buyer to pay may, at any time within one month from delivery, claim the return of the property sold from any person then in

(A) As to service of notice when native cannot be found in Natal, see Act 13, 1894, s. 6, post.

Law 19, 1891. possession, irrespective of any rights such person may have. After one
Schedule. month the seller has merely a right of action for the price.

234. Delivery is taken and given at the place of the party who is selling, bartering, or delivering the property, unless a special contract to do otherwise is made.

235. Cattle or things validly pass from one owner to another by constructive delivery.

236. Persons honestly in possession of stolen goods, have no claim upon the same against the true owner demanding delivery.

237. No Native being under the operation of the Native Law, can avail himself of, or be brought under the provisions of any insolvency law or regulation, to the prejudice of claims against him by any other unexempted Natives.

238. No Native under the operation of the Native Law shall be permitted to reside permanently in the Colony, unless he become a member of a tribe as defined in this Code.

239. Sums due by Government by way of salary or bonus to Chiefs are privileged, and may not be attached for debt by the process of any Court.

240. Native dwellings, commonly called huts, are deemed to be movable property.

241. The Supreme Chief may at any time and in his discretion order Natives suffering from leprosy, or small-pox, or other dangerous or contagious disease to be removed to and be detained in, any special place or premises, for the purpose of undergoing treatment, and such Natives shall be subject to such regulations as the Supreme Chief may direct.

242. [Repealed by Act No. 49, 1898.]

CHAPTER XVIII.

Courts.

[Sections 243 to 249, inclusive, are repealed by Act No. 49, 1898.]

250. Administrators of Native Law are responsible, each in his district, not only for the prompt and impartial administration of justice, but likewise as deputies of the Supreme Chief, in the exercise of that Officer's political power and State authority for the supervision and control of the Native population, and for their individual and general welfare. The office of Administrator of Native Law combines that of Judicial and Executive Officer with Protector.

251. Administrators of Native Law are, in their respective Divisions, deputies of the Supreme Chief, and the Native population is bound to implicitly obey all their lawful commands.

252. The receiving of presents from Natives by any Administrator of Native Law or his officers is strictly forbidden.

253. The Courts of the Administrators of Native Law are Courts of Record, and their proceedings shall be carried on, and their judgments, decrees, or orders shall be pronounced in open Court, and not otherwise. The records of the Court and all documents and notes shall be in the English language, but the proceedings may, when practicable, be conducted in the Native language.

254. The Courts of Administrators of Native Law possess the following jurisdiction:—

(a) In all criminal matters cognizable by Native Law, and not specially excluded from their jurisdiction (A).

(b) [Repealed by Act No. 8, 1897.]

(A) Act 13, 1894, s. 7, post, adds "and in all minor cases of crime committed by natives."

- (c) In all civil matters they have an original jurisdiction without limitation as to amount or value or description of claim, but are not competent to hear and determine cases of divorce, or for the annulment of marriage, where the marriage has been solemnised by Christian rites. Law 19, 1891.
Schednle.
- (d) They may grant orders of arrest or interdict or attachment, in connection with any suits pending or about to be instituted in their own Courts.
- (e) They are Courts of Appeal in all matters which are appealable, from the Courts of Chiefs, and have jurisdiction over all such Courts.
- (f) In all other matters in which they may now or hereafter have special jurisdiction conferred upon them.

255. The powers of the Chiefs as Judicial Officers, and the jurisdiction of their Courts, are defined in Chapter IV. of this Code.

PART II.—CHAPTER XIX.

Criminal Procedure.

256. [All criminal cases arising out of public wrongs, offences, or crimes shall be instituted in the name of the Supreme Chief (A).] Summary trials may take place when the Administrator of Native Law, and the complainant, and accused person are each and all desirous that such should be the case.

257. It shall be competent for Administrators of Native Law to hold preparatory examination into cases where a Native is charged with any crime or offence, and he may commit or hold to bail Natives so charged to take their trial before any competent Court, and may exercise all the powers necessary for such purposes.

258. Whenever any Administrator of Native Law may consider that any Native charged before him with any crime or offence, should receive a more serious punishment than such Administrator is competent to adjudge, he may in his discretion commence a preparatory examination, and commit the accused person for trial before any Court of competent jurisdiction.

259. Every Native arrested and accused of any offence or crime, shall without delay have the allegations against him specifically and clearly stated to him, and be granted time and opportunity to arrange for his defence.

CHAPTER XX.

Resistance of Authority.

260. Any Chief who shall hold an "Umkosi" Dance (dance of the First Fruits), or who shall summon an armed assembly of his tribe, or who shall class or cause to be classed, the men of his tribe into companies or regiments, without the permission of the Supreme Chief first had and obtained, shall be deemed guilty of a political offence.

261. Any Chief who shall be required by the Supreme Chief either directly or by a deputy or messenger to do or refrain from doing any public act or acts, and who shall either defy or neglect promptly to obey such order, shall be deemed guilty of an offence.

262. Any disregard or defiance of the orders and authority of the Supreme Chief shall be deemed to be an offence.

(A) Words in brackets repealed by Act No. 49, 1898, tit. "COURTS (NATIVE)."

Law 19, 1891.
Schedule.

263. Whoever shall spread any false report of a nature calculated to cause disquiet or anxiety, or affecting the Government and its acts, shall be deemed guilty of an offence.

264. Any Native who resists, or with others conspires to resist, the execution of any process of law, or to overawe by force or show thereof, any public officer in the exercise of his duty, shall be deemed guilty of an offence.

265. Any Native who wilfully obstructs or hinders any public officer in the exercise of his authority, or refuses to aid in apprehending and securing offenders, when lawfully called upon so to do, shall be deemed guilty of an offence.

266. Any Native who shall wilfully obstruct the course of justice, whether by destroying or secreting proofs of crime, or by being a party to any illegal personation or false claim, or who shall in any way act or refrain from acting, with intent to impede or defeat the ends of justice, shall upon proof thereof be deemed guilty of an offence.

267. The following acts shall be deemed to be contempt of Court, and upon conviction the person so offending may be punished by a fine not exceeding £5, or by imprisonment with or without hard labour not exceeding one month, either as a separate punishment or in default of the payment of any fine imposed:—

- (a) Wilfully insulting the Court or any officer thereof, within the Court or its precincts, during the sitting of the Court.
- (b) Wilfully interrupting the proceedings of the Court, or misbehaving therein by being drunk or disorderly, or in any other manner.
- (c) Prevarication, or knowingly making a false statement, when under examination, as a witness.
- (d) Obstructing an officer of the Court, when in the lawful execution of his duty.
- (e) Knowingly neglecting to obey any lawful order of the Court.
- (f) Removing or concealing, or causing to be removed or concealed, property, to prevent its seizure as a forfeiture or to defeat any decree, order, or judgment of the Court.

Save as to the amount of the fine which is restricted by Section 51 of this Code, and as to the power of imprisonment, which Chiefs do not possess, the above provisions apply to all Courts for the administration of Native Law.

CHAPTER XXI.

Witch Doctors and Diviners.

268. Whoever shall practice as an "Inyanga yo ku bula" or "Isanusi" (male or female diviner), or as a rain doctor, or as a lightning doctor, shall be deemed guilty of an offence.

269. Whoever by himself or by an agent or messenger, consults or employs a male or female diviner, or a rain or lightning doctor, as such, shall be deemed guilty of an offence, and the agent or messenger so employed, shall also be deemed guilty of an offence.

270. Any person professing for gain a knowledge of witchcraft or the use of spells or charms, or who shall advise any person applying to him to bewitch or injure persons or property, or who shall supply any person with the pretended means of witchcraft, shall be deemed guilty of an offence.

CHAPTER XXII.

Law 19, 1891.

Schedule.

Faction Fights, Riots, and Breaches of the Peace.

271. Any Native who, being present at any feast, dance, or other gathering, shall in the course of such feast, dance, or gathering, make such insulting gestures, or use such offensive or disparaging language, as is calculated or intended to provoke a breach of the peace, shall be deemed guilty of an offence.

272. [Repealed by Act No. 5, 1898.]

273. Whenever more than five persons are assembled together, from whose conduct a breach of the peace may be apprehended, upon their refusal to disperse when commanded by the kraal head or other person in authority, each and all of them shall be deemed guilty of an offence.

274. Any person defying the authority of a kraal head, or entering a kraal when permission to do so has been refused, or remaining in or about any kraal after being requested to withdraw, shall be deemed guilty of an offence.

275. Any person, not being a constable on duty, or not otherwise empowered thereto, who shall carry assegais, axes, other dangerous weapons or knobkerries, to any feast, dance, or other gathering, shall be deemed guilty of an offence, and in addition to punishment, the weapons carried by him shall be confiscated. Any punishment so awarded shall be irrespective of any liability on the part of the person so offending to be tried and punished for taking part in any faction fight or riot (A).

276. Whoever insults another with intent to provoke a breach of the peace, shall be deemed guilty of an offence.

CHAPTER XXIII.

Offences against Decency and Morals.

277. The following acts shall be deemed offences:—

- (a) The seduction of any unmarried girl. The consent of the girl to be no defence.
- (b) The abduction of an unmarried girl. The consent of the girl to be no defence.
- (c) Illicit intercourse with a widow or divorced woman. The consent of the woman to be no defence.
- (d) Enticing any female from the control or custody of her father, husband, or guardian, or attempting to seduce, abduct, or have illicit intercourse with any female (B).
- (e) Adultery, whether by males or females (C).
- (f) Illicit intercourse by a widow or divorced woman.
- (g) Knowingly harbouring the wife, daughter, or ward of another after demand has been made for her return (D).

No voluntary and "bona fide" temporary visit of any girl, to the kraal of her lover with a view to betrothal, shall be deemed to be or to constitute an offence. Intercourse arising out of the "ukungena" union, shall not be deemed to be adulterous or illicit.

(A) See sec. 292, post, and see *Swaimana v. Supreme Chief*, 19 N.L.R. 85.

(B) As to abduction of married woman, see *Nombuda v. Clerk of the Peace*, 6 N.L.R. 83.

(C) An attempt to commit adultery is not within this sec. (*Barwana v. Supreme Chief*, 19 N.L.R. 129).

(D) See *Supreme Chief v. Vula and another*, 18 N.L.R. 22.

Law 19, 1891.

Schedule.

CHAPTER XXIV.

Marriage Law Regulations.

278. Any Native claiming or receiving, or causing any Native to deliver, in consideration of any proposed marriage, "lobolo" in excess of the limits hereinafter (A) specified, shall be deemed guilty of an offence, and in addition to any other punishment, shall suffer the confiscation of any cattle or other property obtained in excess.

279. Any kraal head or guardian of any parties to a marriage, who shall celebrate or permit the celebration of any marriage of such parties, save in the presence of the Official Witness, shall be deemed guilty of an offence.

280. Any kraal head or guardian of any parties to a marriage, who shall celebrate or permit the celebration of a marriage, after the Official Witness shall have stopped or directed the suspension of such celebration, shall be deemed guilty of an offence.

281. Any kraal head or other person, who coerces (B) any girl or woman to marry against her will, shall be deemed guilty of an offence.

282. The Official Witness and husband, failing to register a marriage within thirty days after the celebration, shall each be deemed guilty of an offence.

283. Offences under this Chapter are triable before the Courts of the Administrators of Native Law, and upon any conviction, these Courts are authorised in their discretion, to award any portion of the fine imposed or of the property confiscated, not exceeding one-half, to the person upon whose information the conviction was obtained.

284. Whipping shall not form part of the sentence of the Court, following upon a conviction for a contravention, of any of the Sections of this Chapter.

285. Any misconduct or breach of duty by an Official Witness, in contravention of any of the provisions of this Code, shall be deemed an offence, and in addition to any other punishment, such Official Witness shall be liable to be summarily dismissed from his office, by the Administrator of Native Law.

CHAPTER XXV.

General Offences.

286. Any person being a guardian, or charged with the care of the estate of another, who shall fraudulently deal with the property so entrusted to him, shall be deemed guilty of an offence.

287. Any person who, maliciously, or wilfully, or negligently causes or permits the spread of any infectious or contagious disease, whether among human beings or cattle or other live stock, shall be deemed guilty of an offence.

288. Any person who, by natural duty is responsible for due provision being made of the necessaries of life to any other person, and who fails or neglects to provide those necessaries, and upon injury resulting therefrom, shall be deemed guilty of an offence.

289. Any Native woman or girl leading an immoral life, or found wandering from her kraal, and unable to give a good account of herself,

(A) This word should possibly have been "hereinbefore" (see sec. 178), but the Court refused to remedy the defect (*Gaga v. Supreme Chief*, 20 N.L.R. 54).

(B) The offence may be complete, though the marriage has not been accomplished (*Makula and others v. Supreme Chief*, 19 N.L.R. 156).

may be arrested and brought before the Administrator of Native Law having jurisdiction, and upon failure to satisfy the Administrator with respect to her manner of living, or to give a good or valid reason for her absence from her kraal and guardian, the Administrator may confirm the arrest, and order her return under escort to her kraal, the kraal head of which shall be bound to receive and provide for her. A defiance of any such order, or a repetition of the offence, renders the woman or girl liable to imprisonment with or without hard labour, and with or without spare diet.

290. Any person found concealed in or wandering in or about any kraal, between sunset and sunrise, and not being able to give a good account of himself, shall be deemed guilty of an offence.

291. Any herbalist or other person offering for sale or barter, or professing to possess for sale or use, or any person who administers or causes to be administered or used, any reputed love philtres, or charms, shall be deemed guilty of any offence.

292. Natives carrying assegais, or other lethal weapons are liable to be arrested and fined, and have the weapons confiscated, unless they are engaged upon some public duty, or have the authority of the Administrator of Native Law to carry them, or are engaged in hunting or "bona fide" night travelling (A). The permission of the Administrator of Native Law to carry assegais or other weapons must be in writing, and may extend to the whole Colony, and such permission may be expressed to be for a particular service, duty, or employment, and for a limited period. Constables do not require to be provided with such permits.

293. Any kraal head allowing strange cattle to be slaughtered at his kraal by any person, in the event of such cattle proving to be stolen, shall be deemed guilty of an offence.

294. Any Native making, selling, using, or being in possession of, or having at his kraal any "*Isityimiyana*" shall be deemed guilty of an offence.

295. Any Native who, knowing or having good reason to suspect, the presence of a contagious or infectious disease in any cattle under his control, shall fail to give proper warning of such disease to his neighbours and others interested, or who, having bought or acquired diseased cattle, shall drive them into or through any location or other place used for grazing by the cattle of others, shall, in addition to a civil liability for any damage or loss so caused, be deemed guilty of an offence.

PART III.—CHAPTER XXVI.

General.

296. The Proclamation of the 27th March, 1874, issued and published by the authority of the Supreme chief, and promulgating the Regulations commonly known as the Togat Regulations, is declared to be in force and form part of this Code.

297. The Government Notice No. 139, of 1856, promulgating what are commonly known as the Refugee Regulations; the Proclamation of the 27th September, 1869, promulgating the Regulations issued under Law No. 1, 1869, commonly known as the Native Marriage Regulations; and the Government Notice No. 194, of 1878, promulgating the Code of Native Law as reduced to writing by the Board appointed under the 10th Section of the Law No. 26, of 1875, are hereby cancelled and repealed.

(A) As to punishment for contravening this sec., see Act 8, 1897, s. 2, post.

Law 19, 1891. 298. The following is a list of the Laws which more particularly apply to the Natives of this Colony (A):

	Ordinance	2, 1855,	Law	[22, 1878,]
	"	4, 1855,	"	1, 1884,
	Law	5, 1859,	"	[17, 1884,]
	"	12, 1862,	"	30, 1884,
	"	[12, 1864,]	"	41, 1884,
	"	11, 1865,	"	46, 1884,
	"	21, 1865,	"	48, 1884,
	"	28, 1865,	"	[13, 1885,]
	"	15, 1869,	"	[23, 1887,]
	"	15, 1871,	"	44, 1887,
	"	13, 1874,	"	46, 1887,
	"	[21, 1874,]	"	52, 1887,
	"	13, 1875,	"	14, 1888,
	"	26, 1875,	"	21, 1888,
	"	10, 1876,	"	[22, 1889,] Sections
	"	[13, 1876,]		44 and 45.
	"	[21, 1878,]		

Act No. 13, 1894. (a)

"To Amend the Code of Native Law, and to repeal Law No. 21, 1878."

[5th July, 1894.]

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 Supreme Chief in Council may, in any case where the circumstances appear to warrant that course, and notwithstanding the provisions of Section 182 of Law No. 19 of 1891 (B), authorise an action for the recovery of "lobola," or inheritance arising out of a "lobola" claim in connection with a marriage entered into before the date of the promulgation of Law No. 19 of 1891: Provided that no such authority shall be given after the 31st day of December, 1894.

2. Subsection (d) of Section 148 of Law No. 19 of 1891, shall be repealed.

3. The appointment of Headmen under Subsection (e) of Section 46 of Law No. 19 of 1891, shall be subject to the approval of the Administrators of Native Law.

4. The Supreme Chief may give to a District Headman, who is in charge of a detached portion of a tribe, the same powers for the trial of civil cases as are exercised by Chiefs under Law No. 19 of 1891.

5. The power to appoint Chiefs conferred by Section 33 of Law No. 19, 1891, shall be deemed to include the power to appoint persons to exercise all or any powers of Chiefs for any time and on such conditions as to emoluments or otherwise as the Supreme Chief shall deem fit.

6. When a defendant to whom a special notice has been directed under Section 229 of Law No. 19 of 1891, cannot be found in Natal, such notice may for all purposes be served at his last known place of residence within the Colony.

(A) The Laws in brackets have been the Schedule of Law 19, 1891, and so repealed since this Law was passed. throughout this Act where sections of

(B) Evidently this is a reference to Law 19, 1891, are referred to.

Actions for
Lobola.

Repeal.

Approval of
appointment of
Headmen.

Powers of
Headmen.

Power to
appoint Chiefs
under Law 19,
1891, includes
certain other
powers.

Service of
special notice
on defendant
not found in
Natal.

7. Law No. 21 of 1878, entitled "Law to confer upon Administrators of Native Law, appointed under Law No. 26 of 1875, certain increased jurisdiction within their respective districts," shall be repealed, and the following words be deemed to be added to Subsection (a) of Section 254 of Law No. 19 of 1891: "and in all minor cases of crime committed by Natives."

Act 13, 1894.
Repeal.
Addition to s.s.
(a), sec. 254,
Law 19, 1891.

Act No. 37, 1896.

"For the Better Management of Native Locations."

[9th July, 1896.]

WHEREAS it is expedient to provide for the better management of Native Locations:

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:—

1. This Act may be cited as the "Native Locations Act, 1896."

Short title.
Inspectors of
Locations.

2. It shall be lawful for the Governor, from time to time, to appoint, during pleasure, fit and proper persons, to be called Inspectors, to supervise Native Locations at such salaries as may from time to time be fixed by the Governor.

3. The Governor in Council may make, alter, and amend rules to regulate the use and occupation of lands already or hereafter to be set apart as Native Locations.

Rules.

4. The rules to be passed under this Act may provide for:—

What the rules
may provide
for.

(a) The apportionment of land in locations for use and occupation by natives.

(b) The admission of natives to locations.

(c) The removal of natives from locations.

(d) The removal of natives from one location to another location, or from one part of a location to another part of a location.

(e) The definition or alteration of boundaries of lands in locations allotted for the use and occupation of tribes.

(f) The allotment of lands in locations for kraal sites, and for cultivation, pasturage, and commonage.

(g) All matters relating to roads, by-roads, fences, watercourses, woods, and streams, and the use of water, wood, clay, and stone, and the application to locations of the provisions of Laws No. 25, 1874, and No. 16, 1880 (A).

(h) The preservation of health and observance of decency.

(i) The powers, authorities, and duties of the Inspectors to be appointed under the provisions of this Act.

(k) The duties of Chiefs, District Headmen, and kraal heads in locations, and with regard to the distribution of people therein, the allotment of kraal sites and sites for cultivation, and the removal of kraals in locations.

(l) Generally for carrying out the provisions of this Act.

5. Any person who shall contravene a rule passed under this Act shall be liable to a fine not exceeding Ten Pounds, or to imprisonment, with or without hard labour, for a term not exceeding six months, or to both such fine and imprisonment.

Punishment of
contraventions.

6. All rules made under this Act shall be laid before the Legislative Council and Legislative Assembly as soon as may be after they are made, and shall be published in the "NATAL GOVERNMENT GAZETTE."

Publication of
rules.

(A) Both Laws repealed by Act 42, 1898, tit. "POUNDS."

Act 37, 1896.

Prosecutions.

7. All proceedings for contravention of any rules made under this Act shall be had and taken in the Court of the Magistrate or Administrator of Native Law of the District in which the offender resides, and may be instituted and carried on by the Inspector of the location in which the offence is committed.

Disposal of fines.

8. All fines under any rules made by virtue of this Act shall, when recovered, be paid into the Public Treasury.

Powers of Supreme Chief.

9. Nothing contained in this Act shall be construed in any way to limit the powers of the Supreme Chief.

Repeal.

10. The following Sections of the Schedule to Law No. 19, 1891, are hereby repealed, viz:—

Sub-section (j) of Section 46.

Section 61.

Section 213.

Commencement.

11. This Act shall not come into operation unless and until the Governor notifies by proclamation in the "NATAL GOVERNMENT GAZETTE" that it is Her 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 (A).

Act No. 40, 1896.

"To amend the Code of Native Law."

[9th July, 1896.]

WHEREAS it is expedient to amend Law No. 19, 1891, entitled Law "To legalise the Code of Native Law laid before the Legislative Council according to the provisions of Law No. 44, 1887," and Act No. 13, 1894, entitled Act "To amend the Code of Native Law, and to repeal Law No. 21, 1878":

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:—

Short title.

1. This Act may be cited as the "Native Code Amendment Act, 1896."

Joint construction.

2. This Act and the Law No. 19, 1891, and the Act No. 13, 1894, shall be read and construed together as one Act.

Sec. 77, Law 19, 1891, amended.

3. Section 77 of the Schedule to Law No. 19, 1891, is hereby amended by substituting the words "Court of an Administrator of Native Law" for the words "Native High Court" occurring therein.

Repeal.

4. All the Sections from 79 to 89 inclusive, and the proviso to Section 129, and Sections 130, 131, 154, and 218 of the schedule to the Law No. 19 of 1891, are hereby repealed.

Definition of boundaries.

5. The boundaries of lands occupied by Natives in locations may be defined and altered by the Governor in Council, and boundaries already defined under Section 81 of the Schedule to Law No. 19, 1891, shall be deemed to be boundaries defined under this Act.

Natives to be under Chief within whose boundaries they reside.

6. All Natives shall be deemed to be under the chief on whose side of the boundary they may reside: Provided that when any boundary may separate a Native from his own tribe or chief, such Native may, with the consent required for usual removals, remove to the other side of the boundary within two years from the date of such boundary being defined, and if he shall not so remove within such period he shall, after the expiry thereof, be deemed to remain under the chief on whose side of the boundary he may reside.

(A) Came into operation Sept. 2, 1896. See Pn. in G.G. dated Sept. 1, 1896.

7. The Governor in Council may require the ~~Trustees of any Mission Reserve Lands to lay down thereon boundaries in continuation of boundaries on contiguous locations, and the Natives on reserved Mission land shall be bound by a boundary thereon in the same way as a location Native is hereby made subject to a location boundary.~~ Act 40, 1896.
Boundaries of Mission Reserves.
8. Every Native disregarding any boundary defined under this Act, or crossing over any such boundary and settling upon an unauthorised side thereof, shall be deemed guilty of a contravention of this Act. Disregard of boundaries.
9. In all cases where the conduct of any inquiry under Section 45 of the Schedule to Law No. 19, 1891, shall be delegated by the Secretary for Native Affairs to any officer or person, the officer or person so delegated shall for the purpose of more effectually conducting such inquiry, have the like powers as the Secretary for Native Affairs. Authority of person delegated by S.N.A. to make inquiries.
10. The Governor in Council may place any appointed chief on the same footing with respect to "lobolo" as an hereditary chief in charge of a tribe. Status of appointed chief as to lobolo.
11. Any District Headman may be removed from office by an Administrator of Native Law at the instance of the chief, or on the direction of the Secretary for Native Affairs. Removal of District Headman.
12. The Supreme Court may make, revoke, and vary rules for the purpose of enforcing judgments or compelling payment by instalments of any judgment debt or costs in the Court of any Administrator of Native Law. Rules of Court : payment by instalments.
13. No Native subject to Native Law shall remove his residence from one Magisterial Division to another Magisterial Division without the permission of the Magistrate. Removal of residence.
14. Every contravention of this Act or of the Law No. 19, 1891, or of any Act amending the same, or of any rules and regulations made thereunder, shall be cognizable, and may be tried in the Court of the Administrator of Native Law of the Division in which the offence occurred or in which the person accused may be found. Prosecution of offences.
15. Disobedience or disregard by any native of any duty, obligation, direction, or prohibition imposed on him by Law No. 19, 1891, or any of the sections of the Schedule thereto, shall be deemed to be an offence. Offence of disobedience to Code.
16. [Repealed by Act No. 8, 1897.]

Act No. 8, 1897.

"To repeal, and re-enact with amendments, Sub-section (b) of Section 254 of the Code of Native Law, and Section 16 of the Native Code Amendment Act, 1896."

[22nd May, 1897.]

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. Sub-section (b) of Section 254 of the Schedule to Law No. 19, 1891, and Section 16 of Act No. 40, 1896, the Native Code Amendment Act, 1896, are hereby repealed, and in lieu thereof the following is enacted:— Amendment of sub-sec. (b), sec. 254 of Code and sec. 16, Act 40, 1896.

Any person who shall contravene any of the provisions of Law No. 19, 1891, or of any Act amending the same, or of any rule or order made thereunder, for which a special penalty has not been provided, shall, upon conviction Punishment for contraventions of the Code or any amending Act, where no special penalty is provided.

Act 8, 1897.

in the Court of an Administrator of Native Law, be liable to a fine not exceeding Ten Pounds Sterling, or to be imprisoned with or without hard labour for any term not exceeding six months, or to a whipping not exceeding fifteen lashes. In the discretion of the Court, imprisonment and whipping may be joined and form part of the same sentence, or any one of the said classes of punishment may be awarded alone; or imprisonment may be awarded in conjunction with a fine as an alternative punishment, or by way of default in the payment of any fine: Provided, however, that no woman shall be sentenced to be whipped.

Application of
sec. 1 to sec. 292
of Code.

2. The provisions of the foregoing section shall apply to contraventions of Section 292 of the Schedule of Law No. 19, 1891.

Act No. 5, 1898.

“For the Regulation of Native Assemblies.”

[24th January, 1898.]

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:—

Repeal.

1. Section 272 of the Schedule of Law No. 19, 1891, is hereby repealed.

Rules for control of native gatherings for feasting or beer-drinking.

2. The Governor in Council may from time to time make rules for controlling and regulating any gathering of Natives belonging to different kraals or homes for the purpose of feasting or beer drinkings. All such rules shall be published in the “NATAL GOVERNMENT GAZETTE,” and copies thereof shall be laid before both Houses of Parliament within fourteen days after publication, if the Parliament be then in Session; otherwise within fourteen days after the commencement of the next following Session of Parliament.

Joint construction with Law 19, 1891.

3. This Act shall be read together with Law No. 19, 1891, and any disobedience to or disregard of regulations made under this Act shall be deemed to be a contravention of Law No. 19, 1891.

NATIVE LOCATIONS.

[See “NATIVE LAW.”]

NATURALISATION.

[See “ALIENS.”]

NAVAL COURTS DISCIPLINE, &c.

[See “SHIPPING.”]

NAVAL STORES PROTECTION.

[See Law No. 10, 1867, tit. “CRIMINAL LAW.”]

NEWCASTLE CORPORATION.

Law No. 39, 1884 (A).

“To amend Law No. 11, 1881, and to confer increased powers on Town Boards established under that Law.”

[8th November, 1884.]

21. The Governor is hereby empowered to issue title deeds to the purchasers of any lands situated in the Township of Newcastle which have been sold by, or at the instance of, the Surveyor General of the Colony since the 5th day of May, 1882, and which have not been included in the deed of grant of land by the Governor to the Local Board of such Township, and the title given under the deeds issued by the Governor, in virtue of this section, shall be deemed and taken to be as valid as if they had been issued by the Local Board of Newcastle, anything to the contrary in Law 11, 1881, notwithstanding.

Governor empowered to issue title to certain lands in Newcastle sold since 5th May, 1882.

Law No. 6, 1885.

“To enable the Cemetery Committee for the Township of Newcastle to transfer the Cemetery to the Local Board.”

[17th August, 1885.]

WHEREAS on the thirtieth day of June, 1881, the Government of the Colony of Natal issued a grant, in freehold, and thereby transferred to William Henry Beaumont, Resident Magistrate, Newcastle, Thomas Robinson Haddon, and John Whipp, both of Newcastle, in their capacity as a Cemetery Committee for the Township of Newcastle, and their successors in the said office, a certain piece of land in extent 2 roods 9 perches, being portion of the Town Lands of the Township of Newcastle, on the condition that the said piece of land should be used exclusively for the purposes of a Public Cemetery or Burial Ground and for no other purpose whatsoever :

AND WHEREAS the trustee, John Whipp, has departed this life and the trustee, Thomas Robinson Haddon, has resigned his position as trustee as aforesaid :

AND WHEREAS the remaining trustee, William Henry Beaumont is desirous of resigning his trust and of transferring the land so held in trust to the Local Board of the Township of Newcastle :

AND WHEREAS the Local Board have expressed their willingness to accept the trust on behalf of the inhabitants of Newcastle and all others interested in the said Cemetery :

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

1. It shall be lawful for the Members of the Cemetery Committee for the Township of Newcastle, or for the continuing member thereof, William Henry Beaumont, acting for and on behalf of the Cemetery Committee, to resign and transfer the trust created by the Deed of Grant of 30th June, 1881, to and in favour of the Local Board of the Township of Newcastle, and the said William Henry Beaumont

Transference of Newcastle Cemetery to Local Board.

(A) See this Law in full under tit. “TOWNSHIPS.”

- Law 6, 1885. is hereby authorised and empowered to transfer to the Local Board of the Township of Newcastle without receiving any payment therefor that piece of land transferred to the aforesaid Cemetery Committee and described in the Deed of Grant thereof of 30th June, 1881, as a certain piece of land named "Cemetery A," containing two roods and nine perches, being portion of the Town Lands of the Township of Newcastle in the Colony of Natal, bounded on all sides by Town Lands, as more fully appears from the diagram annexed to the said Deed of Grant: Provided that it shall be a condition of the said transfer that the said piece of land shall be reserved by the said Board and used exclusively for the purposes of a Public Cemetery or Burial Ground, and for no other purpose whatsoever, and that all funds requisite for the maintenance thereof as such burial ground shall be a charge upon and be provided for out of the Township funds.
- Land to be used exclusively as a Public Burial Ground, and maintenance thereof charge upon Township funds.
- Exemption from transfer dues, &c.
- Local Board authorised to make rules and levy burial fees.
- Commencement
2. No transfer dues, fees of office, stamps or any other fees or charges whatsoever shall be payable to or claimable by the Registrar of Deeds in respect of, or in connection with, the transfer by this Law authorised.
3. The Local Board of the Township of Newcastle are hereby empowered to make such rules and regulations, and to levy such fees on burials in the Cemetery as will the better enable them to carry out the objects of the trust and to meet the costs and expenses incident thereto: Provided always, that such rules, regulations and fees shall be subject to the approval of the Governor in Council.
4. This Law shall commence and take effect from and after the date of the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (A).

Law No. 8, 1893.

"To empower the Town Council of the Borough of Newcastle to grant Renewals of existing Leases of Coal Mines on the Newcastle Town Lands."

[23rd June, 1893.]

WHEREAS the Town of Newcastle was, on the 5th day of May, 1882, proclaimed a Township under the provisions of Law No. 11, 1881, and the Local Board of the said Township, by virtue of the powers conferred upon it by Section 46 of the said Law, did, in or about the years 1889 and 1890, with the consent of the Governor, and by public competition, lease to certain persons the right of mining for coal on portions of the Town Lands of Newcastle for the period of Twenty-one years:

AND WHEREAS on the 27th day of June, 1891, the said Township was proclaimed a Borough within the meaning of "The Municipal Corporations Law, 1872":

AND WHEREAS the development of the Coal Mines on the said Town Lands is being retarded in consequence of the inability of the Town Council of the said Borough to give the lessees thereof the option of renewal of their leases:

AND WHEREAS it is expedient, in the interests of the said Borough, to promote the development of the said Mines:

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

(A) Aug. 25, 1885.

1. The Town Council of the Borough of Newcastle are empowered to grant to the lessees of the Coal Mines on the Town Lands of the said Borough the option of renewing their respective leases from time to time for any period not exceeding twenty-one years from and after the expiration of the term of any existing lease or renewal thereof, and the annual rentals of such leases for the period or periods of renewal shall be fixed and determined in the manner provided for by Sections 79 and 80 of the "Municipal Corporations Law, 1872."

Law 8, 1893.
Town Council empowered to grant renewals of Coal Mining leases.

Law No. 10, 1893.

"To empower the Town Council of the Borough of Newcastle to levy a Water Rate."

[23rd June, 1893.]

WHEREAS the Town Council of the Borough of Newcastle have in terms of Law supplied the said Borough with water, and whereas it is expedient to empower the said Town Council to levy a water rate, and to exercise all powers necessary for that purpose:

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

1. For the purpose of raising funds to pay annual interest and other expenses in connection with the present and future supply of water to the Borough of Newcastle, the Town Council of the said Borough are hereby empowered to impose, levy, and collect an annual water rate in addition to the general municipal rates: Provided always, that such water rate shall not exceed twopence in the pound sterling upon the immovable property within the Borough which is liable to be rated under "The Municipal Corporations Law, 1872": Provided, that no such rate shall be levied on any portion of such property situated beyond a distance of 220 yards from the Water Service.

Water rate authorised to be levied in Borough of Newcastle.

Certain properties excepted.

2. For the purposes of the said water rate, Chapter 12 (consisting of Clauses 106 to 125, both inclusive) of "The Municipal Corporations Law, 1872," shall be read and construed conjointly with this Law.

Cap. 12, Law 19, 1872, incorporated.

3. The said Town Council are empowered to regulate and control the mode and quantity of the water supply, to divert and stop the same when necessary, and to make and enforce a tariff of special charges for any consumption of water other than that drawn from the street hydrants, or that required for ordinary household purposes, and may contract with the Natal Government for the supply of water for the use of the Government.

Powers of Town Council. Supply of water. Tariff of charges.

4. The powers to make By-laws conferred on Town Councils by "The Municipal Corporations Law, 1872," are hereby extended to the Town Council of the Borough of Newcastle for all the purposes of this Law.

By-laws.

5. The said Town Council, by its officers, shall have the right of access at any time into private houses, or on to private lands and premises for the purpose of inspecting pipes, meters, cisterns, and the like: Provided, that such right shall not be exercised in the case of private houses against the will of the householder, except between the hours of 9 o'clock in the morning and 1 o'clock in the afternoon.

Right of entry for purpose of inspection.

Act No. 28, 1899

“To enable the Town Council of the Borough of Newcastle to borrow £10,000.”

[28th August, 1899.]

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 certain public works and permanent improvements within the said Borough:

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:—

Authorisation
of loan.

1. The Town Council of the Borough of Newcastle, in the Colony of Natal, are 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 purposes mentioned in the Schedule hereunto annexed.

Council may
issue Stock.

2. The said Town Council are 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 5 per cent. per annum.

Charge on
Revenue.

3. The said Stock and interest thereon shall be a charge on the rates, rents, and general revenue of the said Borough.

Mode of issuing.

4. Such Stock shall be issued by crediting the purchaser thereof with such amount thereof as he shall purchase, in a register to be kept for that purpose by the Town Clerk of the said Borough.

Certificates.

5. The stock shall be transferable by transfer in the said register, and every person to whom any such credit shall have been given as aforesaid in the first instance, or to whom any such transfer shall thereafter have been made in the said register, shall be entitled to require of the said Town Clerk, and the said Town Clerk shall in each case issue, a certificate, signed by the Mayor of the said Borough and the said Town Clerk, stating the amount of such Stock standing to the credit of the said person in the said register.

Transfer of
Stock.

6. In all cases of transfer of Stock the transferor's certificate relating to the Stock to be transferred shall be given up to the Town Clerk of the said Borough, who shall cancel same on the issue as aforesaid of a new certificate in the name of the transferee.

Interest.

7. The interest on the Stock shall be payable half-yearly on the 30th day of June and the 31st day of December, or as soon thereafter as demand shall be made therefor, to the registered holder of such Stock or his duly authorised attorney, and such payment shall be made at the office of the Town Clerk of the said Borough, or at such other place as may be provided in the certificate representing the Stock.

Regulations.

8. The Town Council of the said Borough may from time to time make such regulations as they may see fit, for all or any of the following things:—

- (a) For managing the creation, registration, issue and transfer of Stock.
- (b) For paying interest of Stock.
- (c) For issuing certificates of Stock.

Special rate
may be levied to
pay arrear
interest.

9. In case the interest payable in respect of any part of the Stock to be issued by virtue of this Act shall be in arrear and unpaid for thirty days after the date of payment thereof, and after demand made in writing by the registered holder of any Stock, it shall be lawful

for the Supreme Court of Natal, as often as such default shall occur, at the instance of the registered holder of any such Stock, the interest of which shall be in arrear, to cause a special rate to be levied upon the immovable property situate within the said Borough of Newcastle, which is now, or hereafter may be, liable to be rated for municipal purposes under "The Municipal Corporations Law, 1872," to the intent that all arrears of interest may be paid out of the proceeds of such special rate.

Act 28, 1899.

10. In case the principal sum of the said Stock shall not be repaid upon demand at or after the day fixed for the repayment thereof, it shall be lawful for the said Supreme Court, as often as such default shall occur, at the instance of the registered owner of any such Stock whose claim shall be unsatisfied, to cause a sale or sales to be made of so much of the Town Lands of the said Borough of Newcastle as may be necessary for the purposes of paying such principal sum, and in the event of the proceeds of such sale or sales being insufficient to pay and satisfy all moneys due and payable, then the deficiency shall be made good by a special rate or rates, to be levied in the manner hereinbefore provided with respect to the payment of arrear interest.

Repayment of principal, how to be enforced.

11. It shall be lawful for the said Town Council, with the consent in writing of the Governor, to sell by public auction, after due publication, and transfer to the purchasers thereof, so much of the Town Lands of the said Borough as may be necessary for repayment of the said Stock, and other moneys from time to time due by the said Town Council, together with interest thereon.

Sale of Town Lands to repay Stock.

12. Upon any sale of Town Lands as aforesaid, any portion of the purchase price which shall remain unpaid on transfer of the land so sold to the purchaser thereof shall, together with the interest to become due thereon, be secured by a bond binding the purchaser personally, and mortgaging the land so sold, and the said bond shall specify that the moneys secured by it shall be applied by the said Town Council for the purposes mentioned in the immediately preceding section.

Purchase price, how secured.

13. Nothing in this Act, and nothing done under the provisions of this Act, shall take away, abridge, or prejudicially affect any right, security, or interest, by way of priority, or otherwise, of any person in or to the rents, rates, general revenue, and Town Lands of the said Borough.

Saving of rights.

14. This Act may be cited as "The Newcastle Corporation Loan Act, 1899."

Short title.

SCHEDULE.

	£
Town Hall	5,000
Waterworks and extending Water Supply	2,000
Lighting any Streets and Places belonging to or subject to the control of the Town Council	2,500
Market Hall	500
	£10,000

NEWSPAPERS.

[See "COPYRIGHT"; "POST OFFICE."]]

Law No. 9, 1858.

"To repeal Ordinance No. 26, 1846, extending to the District of Natal certain provisions of the Cape Ordinance No. 60, 1829, entitled 'Ordinance for preventing the mischiefs arising from the printing and publishing newspapers, and papers of a like nature, by persons not known, and for regulating the printing and publication of such papers in other respects; and also for restraining the abuses arising from the publication of blasphemous and seditious libels;' to enact other regulations in lieu thereof; and to regulate the transmission of newspapers by post."

[10th April, 1858.]

WHEREAS, the existing law of this Colony, in relation to the newspaper press, is unnecessarily cumbrous and restrictive, and is not adapted to the present circumstances of the Colony; And whereas it is necessary to amend the same, and to introduce regulations concerning the transmission of newspapers by post within this Colony.

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof:—

Repeal.

1. That Ordinance No. 26, 1846, shall be, and the same is, hereby repealed.

Declaration to be made by printer, &c., of newspaper, before Resident Magistrate.

2. That within one month after the passing of this Law, no person shall print or publish, or shall cause to be printed or published, any newspaper, until a declaration in writing shall be made, setting forth the correct title of the newspaper, a true description of the house or building wherein such newspaper is intended to be printed, and also setting forth the true name and place of abode of every person who is intended to be the printer, or to conduct the actual printing of such newspaper, and of any person who is intended to be the publisher thereof, and of every person who shall be proprietor of the same; and every such declaration shall be made and signed by every person named therein as printer, publisher, and proprietor of such newspaper to which such declaration shall relate; and every such declaration shall be made before the Resident Magistrate of the district within which the newspaper shall be published.

Declaration where to be filed.

3. One copy of the declaration as aforesaid, shall be filed and kept in the office of the Resident Magistrate, and the original shall be transmitted by him to the Colonial Secretary, who shall file and keep the same in the Colonial Office; and either the original declaration or the duplicate declaration aforesaid or certified copies thereof shall be deemed and taken as conclusive evidence of the facts declared in any suit or action, civil or criminal, in any Court of Law in this Colony: Provided always, that if any person, against whom any such declaration or copy thereof shall be offered in evidence shall prove that he made a declaration before the Resident Magistrate of the county in which he lives, previous to the date of publication of the paper to which the proceedings shall relate, that he had ceased to be the printer and publisher of such paper, such person shall not be deemed, by reason of any former declaration as aforesaid, to have been the printer and

publisher of such paper after the day on which such last mentioned declaration shall have been made before the Resident Magistrate. Law 9, 1858.

4. Any person making such declaration as is by this Law required to be made, who shall knowingly and wilfully insert therein anything contrary to the truth, or who shall knowingly and wilfully omit to set forth therein according to the truth any matter or thing required by this Law, shall be liable to the pains and penalties to which persons are liable for wilful and corrupt perjury. Penalty for false declaration.

5. Any person who shall knowingly and wilfully print or publish, or cause to be printed or published; and any person who shall knowingly and wilfully sell, vend, or deliver out, any newspaper, either as a proprietor thereof, or otherwise, the declaration required by this Law not having been duly made, shall be liable to a penalty not exceeding £20. Penalty for publishing without having made declaration.

6. At the end of every newspaper, and of every supplement thereof, the name of the printer and publisher of every newspaper, shall be printed in some part thereof, under a penalty not exceeding £20 for every issue in which the same shall not appear; and one copy of each issue, signed by the printer and publisher, shall be transmitted to the Colonial Secretary, as soon as may be after publication, which shall be carefully kept by the said Colonial Secretary, and shall be paid for, at the published price, out of the colonial revenue; and every publisher, or printer, or proprietor, of such newspaper, who shall neglect to deliver, or cause to be delivered, in manner hereinbefore directed, such copy or copies as aforesaid, signed as aforesaid, shall, for every such neglect, respectively forfeit the sum of £10; and in case any person shall make application in writing to the said Colonial Secretary, in order that any newspaper, or any supplement thereof, so signed as aforesaid, may be produced in evidence in any proceeding, civil or criminal, the said Colonial Secretary shall, at the expense of the party applying, at any time within two years from the publication thereof, cause such newspaper, and the supplement thereof, to be produced in the Court in which at the time where the same is required to be produced (A); and all copies so produced as aforesaid shall be evidence against any printer, publisher, and proprietor of every such newspaper and supplement respectively, in all proceedings, civil or criminal, to be commenced or carried on, as well touching such newspaper, as any matter or thing therein contained. Name of printer, &c., to be printed at end of each newspaper. One copy of each issue to be signed by printer and publisher and transmitted to Colonial Secretary.

7. Every person who shall establish a newspaper after the passing of this Law, shall conform, in all respects, to the provisions thereof: Provided always, that such person shall make the declarations as aforesaid, at least one week prior to the date of issuing the first number of such paper. As to newspapers established after passing of this Law.

8. That no person shall print or publish, or cause to be printed or published, any newspaper, until he or she shall have entered into a recognisance before one of the Judges of the Supreme Court, or shall have executed in the presence of, and delivered to, the Resident Magistrate of the district where such newspaper shall be printed, a bond, together with two sufficient securities, to the satisfaction of the Judge taking such recognisance, or of the Resident Magistrate taking such bond, in the sum of £100, and his or her sureties in a like sum, in the whole conditioned that such printer or publisher shall pay to Her Majesty, her heirs and successors, every such fine or penalty as may at any time be imposed against him by reason of any conviction for printing or publishing any blasphemous or seditious libel, at any time after the entering into such recognisance, or executing such bond, and further Recognizance to be entered into by printer and publisher.

(A) Words appear to have been omitted from this sentence.

Law 9, 1858. conditioned for the payment of any penalty under the provisions of this Law; and every person who shall print or publish any newspaper without having entered into such recognisance, or executed such bond, with such sureties as aforesaid, shall for every such offence forfeit the sum of £20.

Sureties may withdraw from recognisance on giving notice.

9. Provided always, that if any surety or sureties shall be desirous of withdrawing from such recognisance, it shall and may be lawful to and for him, or them, so to do, upon giving twenty days' previous notice, in writing, to the Colonial Secretary for the time being, at his office, and also to the printer or publisher for whom he or they is or are surety or sureties; and that in any such case every such surety shall not be liable upon the said recognisance, other than except for any penalty or penalties, before that time imposed or incurred, and for which he or they would otherwise have been liable under the said recognisance, and that then, and in every such case, the person for whom such surety shall have been bound, shall not print nor publish any newspaper, or other such paper as aforesaid, until he shall have entered into a new recognisance, with sufficient sureties in manner and to the amount aforesaid; and in case he shall print or publish any newspaper, or other such newspaper as aforesaid, he shall forfeit, for every such offence, the sum of £20.

New recognisance.

In event of insolvency of surety, new recognisance to be entered into before any newspaper is printed.

10. And in case any surety or sureties in any such recognisance shall be declared insolvent, under any Law for declaring insolvencies, or shall be discharged under and by virtue of any Law for the relief of insolvent debtors, then and in every such case the person for whom such surety or sureties shall have been bound, shall not print or publish any newspaper or other such paper as aforesaid until he shall have entered into a new recognisance, with sufficient sureties, in the manner and to the amount aforesaid, after he shall be required so to do by the Colonial Secretary, by a notice in writing to that effect; such notice to be left at such place as is mentioned in the affidavit or affirmation last made at the place at which the said newspaper or other such paper as aforesaid without having entered into such new recognisance as aforesaid, having been required in manner aforesaid so to do, he shall forfeit for every such offence the sum of £20 (A).

11. [Repealed by Law No. 11, 1867.]

Penalties how recovered.

Limitation.

12. All pecuniary penalties under this Law may be sued or prosecuted for the use of Her Majesty, in the name of Her Majesty's Attorney-General, within three calendar months next after the act committed, and not afterwards; and notice in writing of such proceeding, and the cause thereof, shall be given to the defendant or defendants one month before the commencement of such proceeding.

Commencement

13. This Law shall commence and take effect from and after the passing thereof.

(A) Words appear to have been omitted from this section.

NORTH BARROW.

Law No. 2, 1875.

“To amend sub-section C. of Section 1 of the Law No. 3 of 1870, entitled a Law ‘To provide for the Leasing or Exchanging the Lands reserved by Government as sites for small Towns and Villages within the Colony of Natal’; and to enable the Lieutenant Governor of the Colony of Natal to grant on lease to the Natal Plantations Company (Limited) a portion of the Town Lands of North Barrow, in the Umlazi Division of the County of Durban in the said Colony.”

[3rd June, 1875.]

WHEREAS certain Lands, and amongst them the Town of North Barrow, in the Umlazi Division of the County of Durban, in the Colony of Natal, have been reserved as Town Lands or commonages for Towns and Villages in this Colony:

AND WHEREAS the said Town Lands of the Village of North Barrow are not at present required for the purpose for which they were reserved:

AND WHEREAS it is desirable to lease a portion of such Town Lands of North Barrow in order to make them reproductive and for the advancement of the Agriculture of the Colony:

AND WHEREAS under the provisions of the Law No. 3 of 1870, the leasing of such Town Lands is subjected to several restrictions from which individual cases may be reasonably relieved:

AND WHEREAS the Natal Plantations Company (Limited) are desirous of temporarily acquiring a portion of such Town Lands for the purpose of the cultivation of sugar, but are unable to do so in a manner suited to their requirements, owing to the existence of such aforesaid restrictions:

AND WHEREAS it is expedient to grant such relief:

BE IT THEREFORE ENACTED by the Lieutenant Governor of the Colony of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

1. So much of the aforesaid Law No. 3 of 1870 as may be repugnant to the provisions of this Law is hereby declared not to apply to any Lease or Leases entered into under and by virtue of the provisions of this enactment.

Leases under this Law not affected by repugnant provisions of Law 3, 1870.

2. It shall be lawful for the Lieutenant Governor to let on lease to the said Natal Plantations Company (Limited) a portion or portions of the said Town Lands of North Barrow, not exceeding in the aggregate an extent of 500 acres for the cultivation of sugar by such Company.

Lieutenant-Governor may lease land to the Company.

3. The said Lands shall be let on lease for any period not exceeding fifteen years, and at such rent or rents, and upon such conditions as may be imposed by the Lieutenant Governor and accepted and agreed to by the said Company.

Duration of lease.

4. The rent of such lands leased hereunder shall be payable annually in advance to the Colonial Treasurer, and may be recovered under the provisions of the Law No. 12 of 1869, entitled “Law to facilitate the recovery of Quit Rents and other Land Rents and Fines for non-occupation” (A).

Rent.

(A) Repealed by Law 33, 1887, tit. “QUIT RENTS.”

Law 2, 1875.

Not agreeing with Company, the land may be leased to others on same terms.

5. In default of any agreement for said lease being come to between the said Lieutenant Governor and the said Natal Plantations Company (Limited) within twelve months after the commencement and taking effect of this Law, it shall be lawful for the Lieutenant Governor to lease the said lands, or any portion or portions thereof, to any person or persons, or to any other Company or Companies, upon the same terms and conditions as those offered to and not accepted by the said Natal Plantations Company (Limited).

Moneys received hereunder to be funded.

6. All moneys received under this Law shall form a fund for the town of North Barrow, to be called the "North Barrow Township Fund," which said fund shall be expended for the benefit of the town of North Barrow, including improvements to the harbour, in such manner as the Lieutenant Governor may direct, and for no other purpose whatsoever.

Commencement

7. This Law shall commence and take effect from and after the promulgation thereof in the "GOVERNMENT GAZETTE" (A).

NOTARIES PUBLIC (B).**NURSES.**

[See Act 21, 1899, tit. "MEDICAL PRACTITIONERS."]

(A) June 8, 1875.

(B) As to stamping deeds, see Act 43, 1898, s. 23, tit. "REVENUE"; as to ex-

amination of protocols and registers, see sec. 49; as to stamps on annual licenses see Schedule II.

OATHS.

1

OATHS.

[See "EVIDENCE AND WITNESSES."]

Law No. 13, 1862.

"To make further provision in respect of the substitution, in certain cases, of Declarations for Oaths."

[13th August, 1862.]

WHEREAS it is expedient to make further provision than is contained in Law No. 17, 1859, in respect of the substitution of Declarations for Oaths:

BE IT THEREFORE ENACTED by the Lieutenant Governor of the Colony of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

1. The 5th section of Law No. 17, 1859, the Law No. 6, 1860, and the Law No. 10, 1861, shall be, and the same are, hereby repealed.

Repeal.

2. In all cases in which an oath may be lawfully administered to any person, either as a jurymen or witness, or a deponent in any proceeding, civil or criminal, in any court, or on appointment to any office or employment, and the person to take any such oath shall, on the plea of conscience, object thereto, then, on any such occasion, any such person may, in lieu of such oath, make such form of declaration as is allowed by the fourth section of Law No. 17, 1859 (A), with any such change for the words "the evidence that I shall give in this case shall be the truth, the whole truth, and nothing but the truth," as the occasion may require, and any such declaration shall, for all purposes of a prosecution for perjury, or of other subject matter of Law, be deemed an oath.

Declarations of jurymen or witnesses, when lawfully made, to be deemed an oath.

3. When any person shall be before any court for the purpose of giving evidence, and it shall appear to such court that, by reason of seeming barbarousness, or uncivilization, or of absence of rational religious belief, or of other by such court judged deficiency of or in such person it would be unseemly, irreverent, or otherwise improper or inadvisable to administer an oath to such person, there may, in lieu of an oath, be substituted on such occasion, by permission of such court, in respect of such person, a declaration in these or equivalent words:

Declarations may be substituted for oaths in certain cases.

"I do declare, that the evidence which I shall give in this case shall be the truth, the whole truth, and nothing but the truth; and I know that if I say anything falsely I may be severely punished."

Provided always, that such court may require any such person, in so declaring, to hold up one hand, and may also give, or cause to be given to such person, admonition as to the nature and obligation of the declaration: Provided also, that nothing herein contained shall be deemed to render admissible the evidence of any person who would, under the second section of the said Law No. 17, 1859, be incompetent to give evidence: Provided also, that such court shall not permit such substitution in respect of any person who shall then ask to be sworn in the usual manner, or to be permitted to take the declaration

Evidence of incompetent persons not rendered admissible.

(A) See Law 5, 1870, s. 5, tit. "EVIDENCE AND WITNESSES."

Law 13, 1862. specified in the fourth section of the Law No. 17, 1859, and any such declaration by any such person shall, for all purposes of a prosecution for perjury, or of other subject matter of law, be deemed an oath; and in any such prosecution for perjury, evidence of any person having made such a declaration before any court shall also be evidence that on such occasion some one or more of the circumstances referred to in the last foregoing section (A) existed, sufficient to authorise thereunder the substitution of such declaration for an oath, and that such substitution was then permitted by such court, and that such person did not ask to be sworn or declared.

Declarations or affirmations may be substituted for oaths in depositions or affidavits.

4. When, by any enactment for the time being in force in this Colony, any form in the way of declaration, affirmation, or the like, may, under any circumstances affecting any person, be substituted for an oath, for the purpose of such person giving evidence, such form respectively, with any requisite change to suit the case of written instead of oral testimony or deposition, may, in corresponding circumstances affecting any person, be substituted for an oath for the purpose of any affidavit, deposition, or the like, being made by such person. And such form so used shall, for all purposes of a prosecution for perjury, or of other subject matter of law, be deemed an oath, and the provisions of section three hereof, as to evidence, shall apply to any prosecution for perjury referred to in this section, which shall have relation to the form of declaration given by section three hereof, with any such requisite change as aforesaid.

In indictments or prosecution the particular form of declaration made need not be set out.

5. In any indictment or other document in which any declaration, affirmation, or the like, allowed by any enactment for the time being in force in this Colony to be substituted under any particular circumstances for an oath, shall be referred to, such reference shall, so far as concerns any averment of authority in law for such substitution, be sufficiently made by stating in effect that such form or act of declaring, affirming, or the like, was, or was adopted or done in pursuance of the provisions of the enactment in question, referring thereto by number and section, or in other manner usual in that behalf, without its being necessary to set out the form of declaration, affirmation, or the like, or to allege the existence of any circumstances requisite to authorise such substitution.

Definition of "court."

6. The word "court" in this Law shall, for the purposes thereof, include any person or tribunal for the time being authorised to receive evidence upon oath, or to administer any oath.

Commencement

7. This Law shall be in operation from the promulgation thereof in the "GOVERNMENT GAZETTE" after the passing thereof (B).

Law No. 14, 1869.

"To amend the Law relating to Promissory Oaths, by simplifying the forms of oaths required to be taken by certain officers and persons in this Colony."

[22nd September, 1869.]

WHEREAS it is expedient to simplify certain forms of promissory oaths in this Colony, and to adopt like forms to those in use in Great Britain and Ireland:

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

(A) See Law 5, 1870, s. 6, tit. "EVIDENCE AND WITNESSES."

(B) Aug. 19, 1862.

1. The oaths in this Law referred to severally as the oath of Allegiance; the Official oath; the Judicial oath; and the Executive Councillor's oath, shall in future be in the respective forms given in the Schedule to this Law, any existing Law, Ordinance, regulation, or custom, to the contrary notwithstanding. Law 14, 1869.
Oaths referred to in this Law shall be in the forms in schedule.
2. The oath of Allegiance and Official oath shall be tendered to, and taken by, each of the following officers, as soon as may be after his acceptance of office by the officer, that is to say:—
The Lieutenant Governor of the Colony.
Officer administering the Government.
Superior Executive officers.
Justices of the Peace. Oath of allegiance and official oath—by whom taken.
3. The oath of Allegiance and Judicial oath, shall be tendered to, and taken by, each of the following officers as soon as may be after his acceptance of office by the officer, that is to say:—
The Chief Justice,
Puisne Judges of the Supreme Court,
Resident Magistrates,
Other Judicial Officers. Oath of allegiance and judicial oath—by whom taken.
4. The oath of Allegiance shall be taken by members of the Legislative Council, and by aliens obtaining letters of naturalisation. Oath of allegiance—by whom taken.
5. The oath of Allegiance, and an oath of fidelity in the discharge of their duties (Executive Councillors' oath) shall be taken by members of the Executive Council (A). Executive Councillor's oath.
6. All such oaths shall be tendered and taken in manner in which the oaths required to be taken by such officers respectively previously to the passing of this Law, on entering their several offices, would have been tendered and taken. Such oaths to be tendered, and taken as heretofore.
7. Where in any oath under this Law the name of Her present Majesty is expressed, the name of the Sovereign of the United Kingdom of Great Britain and Ireland for the time being shall be substituted from time to time. Name of Sovereign.
8. When an oath is required to be taken under this Law every person for the time being by law permitted to make a solemn affirmation or declaration instead of taking an oath, may, instead of taking such oath, make a solemn affirmation in the form of the oath hereby appointed, substituting the words "solemnly, sincerely, and truly declare and affirm" for the word "swear," and omitting the words "so help me God." Solemn affirmation or declaration may be substituted for oath.
9. This Law may be cited for all purposes as the "Promissory Oaths Law, 1869." Short title.
10. This Law shall commence and take effect from and after the promulgation thereof in the "GOVERNMENT GAZETTE" (B). Commencement

SCHEDULE.

1. *Form of Oath of Allegiance.*

I, _____, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, her heirs and successors according to law. Schedules.

So help me God!

2. *Form of Official Oath.*

I, _____, do swear that I will well and truly serve Her Majesty Queen Victoria in the office of _____
So help me God!

(A) For form of oath to be taken by member of Legislative Council or Legislative Assembly see Law 14, 1893, s. 27, tit. "PARLIAMENT."
(B) Sept. 28, 1869.

Law 14, 1869.

Schedules.

3. *Form of Judicial Oath.*

I, _____, do swear that I will well and truly serve our Sovereign Lady Queen Victoria in the office of _____, and I will do right to all manner of people after the laws and usages of this Colony, without fear or favour, affection or ill-will.

So help me God!

4. *Form of Oath of Executive Councillor.*

I, _____, being chosen and admitted of Her Majesty's Executive Council in the Colony of Natal, do swear that I will, to the best of my judgment, at all times when thereto required, freely give my counsel and advice to the Governor, Lieutenant Governor, or Officer administering the Government of the Colony of Natal for the time being, for the good management of the public affairs of the Colony of Natal; that I will not directly nor indirectly reveal such matters as shall be debated in Council and committed to my secrecy, but that I will in all things be a true and faithful Councillor.

So help me God!

ORDINANCES.

[See "STATUTES."]

ORDNANCE.

ORDNANCE.

Law No. 10, 1865.

“For transferring to one of Her Majesty’s principal Secretaries of State the powers and properties vested in this Colony in the Officers of the Ordnance.”

[24th August, 1865.]

WHEREAS by divers grants, transfers, leases, contracts or other means, divers lands, tenements and properties within this Colony have been and now are vested in the Officers of Her Majesty’s Ordnance: And whereas Her said Majesty has been pleased to signify Her Royal wish and desire that all such lands, tenements, and properties as aforesaid should be transferred from the Officers of Ordnance and be vested in one of Her Majesty’s principal Secretaries of State:

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

1. All lands, tenements and properties of every sort and description lying and being within this Colony, and now vested in or belonging to the Officers of Her Majesty’s Ordnance, whether by the name of the principal Officers of Ordnance or by the name of the respective Officers of Ordnance, or by any other name or description whatsoever, and whether held by freehold, quit-rent, leasehold, or any other tenure, are hereby transferred to Her Majesty’s Secretary of State for the time being to whom Her Majesty shall think fit to entrust the Seals of the War Department, and to such last mentioned Secretary of State, for the time being, for ever.

All Ordnance lands in Colony transferred to Secretary of State.

2. All contracts, covenants, and agreements heretofore made or entered into by any person or persons whomsoever with the said principal officers of the Ordnance, or with the said respective officers of the Ordnance, or any person or persons on their behalf as to or concerning any Lands, Hereditaments, Estates and Property vested in or agreed to be purchased by the said principal officers, or by the said respective officers, or in anywise relating to the public service, shall in this Colony be deemed and taken to have been made or entered into with such principal Secretary of State as last aforesaid, and shall be executed and enforced by him in like manner as if he had originally been party thereto instead of the said officers of the Ordnance or other person or persons; and all proceedings whatsoever which have been or might, or may have been, commenced, taken, or done in the names of the said Officers on behalf of Her Majesty, shall and may hereafter be commenced, continued, taken and done in the name of such principal Secretary of State as aforesaid in like manner (in the case of proceedings already commenced, taken, or done) as if he had originally been party thereto, instead of the said officers of the Ordnance.

Contracts, &c., entered into with Officers of Ordnance, transferred to Secretary of State.

3. In every contract, conveyance, grant, transfer, lease, or other assurance of any lands, tenements or property with, unto, or by the last-mentioned principal Secretary of State for the time being, and in every other deed or instrument relating to any lands, hereditaments, estates, or property, or in anywise to the public service to which the last-mentioned principal Secretary of State for the time being shall be or shall be intended to be a party, it shall be sufficient to call or describe him by the style of “Her Majesty’s principal Secretary of State for the War Department” without naming him.

In deeds, Secretary of State may be designated by his official title.

Law 10, 1865.
 Commanding
 Royal Engineer
 may execute
 deeds for Secre-
 tary of State.

4. All deeds, instruments and writings of every sort or kind whatsoever, relating to any lands, tenements, or properties within this Colony, or to any suits or proceedings at law instituted in any of the Courts of this Colony or to any matter or thing belonging to or connected with the administration of the War Department in this Colony, and to which deeds, instruments or writings, the Secretary of State aforesaid shall be, or shall be intended to be, a party, may be executed for and on behalf of the Secretary of State aforesaid for the time being by the commanding Royal Engineer for the time being commanding in this Colony: Provided that nothing herein contained shall be construed so as to prejudice or affect the validity of any deed, instrument or writing signed by the last-mentioned, or by any other Secretary of State, or by any attorney lawfully appointed by the said Secretary of State to act for him in his official capacity within this Colony.

But deeds
 signed by Secre-
 tary of State or
 his attorney,
 valid.

Commencement

5. This Law shall commence and take effect from and after the promulgation thereof in the "GOVERNMENT GAZETTE" (A).

(A) Aug. 29, 1865.

OUTSPAN.

[See "ROAD BOARDS"; "ROADS (MAIN)."]

Law No. 9, 1870.

"For regulating Places of Outspan, and the rights of Travellers with respect to Roads and Outspan Places."

[14th September, 1870.]

WHEREAS it has been provided in certain title deeds that all travellers shall enjoy the right to outspan on certain lands throughout the Colony:

AND WHEREAS doubts have arisen with regard to the extent and meaning of that right:

AND WHEREAS it is expedient that such doubts should be removed, and that the said right and privilege of outspan should be under proper management, regulation, and control; and further, that travellers' rights of outspan and otherwise generally should be regulated and defined.

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

1. It shall be competent for the owner of any farm or piece of land, subject to the right of outspan, to apply by memorial to the Lieutenant Governor, praying that a particular portion of such farm or piece of land may be set apart for the purpose of outspanning, and for no other purpose whatsoever: Provided, nevertheless, that nothing in this Law contained shall prevent the owner or occupier of such farm or piece of land from using for grazing purposes such portion when so set apart as an outspan place in such manner as not to injure or prejudice the using of such outspan places by travellers for the purposes of outspan.

Landowner may apply to Governor to have outspan place set apart on his land.

2. Upon receipt of any memorial or application for the setting apart of an outspan place, as provided for in the above clause, the Lieutenant Governor shall cause the locality therein referred to to be inspected by the Field Cornet of the ward in which the land is situated, or by the Resident Magistrate of the county, or some other competent person, who shall thereupon recommend the specific situation and extent of the portion to be set apart as aforesaid for the purposes of outspanning, and who shall duly report the result of his inspection for the Lieutenant Governor's information and decision; provided that the proportion of not less than four acres, and not exceeding five, to every one hundred acres of the farm, shall be set apart for such outspan place, except as otherwise provided in clauses 7 and 9 of this Law.

Field Cornet, Magistrate, or other person to inspect and report upon locality.

3. Upon the receipt of the report of such inspection as hereinbefore mentioned, the Lieutenant Governor shall cause notice thereof to be published in the "GOVERNMENT GAZETTE," calling upon all persons concerned to state in writing, within three months, to the Resident Magistrate of the division or county in which such farm or piece of land may be situated, such objections as they may have to the situation and extent proposed, and the Resident Magistrate shall, at the expiry of such notice, forward the objections (if any) received by him, together with his report thereon, to the Colonial Secretary.

Proportion to be set apart.

Upon receipt of report, Governor to publish notice in Gazette inviting objections.

Law 9, 1870.

Governor may, after inquiry, require owner to have outspan place surveyed, and, after survey, may establish same by proclamation in *Gazette*.

After issue of proclamation, the outspan place to be represented and certified in Surveyor-General's records.

Owner to erect beacons.

Description of beacons; owner must also erect a notice board.

Beacons, boards, &c., to be maintained in repair, otherwise owners to have no claim for trespass.

Subject to foregoing conditions, any farm may be freed from servitude of outspan.

A lesser proportion than five per cent. may, under certain circumstances, be determined for outspan in Victoria, Durban, and Alexandra counties.

How an outspan place may be set apart upon farms which have been subdivided and transferred.

4. It shall be lawful (A) for the Lieutenant Governor, after the lapse of the above period, and due enquiry into such objections (if any) as shall have been sent in, touching the situation and extent of the proposed place of outspan, to require the owner to cause the said outspan place to be properly surveyed by some licensed land surveyor, at the expense of the said owner of the piece of land upon which the same is situated; and after such survey thereof, to establish such outspan place by proclamation, published for three successive weeks in the "GOVERNMENT GAZETTE."

5. After the issue of any proclamation establishing an outspan place, the extent of such place of outspan, and its figure and situation relatively to the other boundaries of the said farm or piece of land, shall be carefully certified in the office of the Surveyor General in the usual manner, and shall be represented by a diagram or plan in the said office, free of any office fee or charges, and it shall then be incumbent upon the owner or owners of such farm or piece of land, to fix the boundaries of such outspan place by proper beacons, which shall be at least three feet in height, and shall in the upper foot thereof be conspicuously painted or plastered with some permanent colour, and distinguished by letters A, B, C, &c. And, further, it shall be incumbent upon the said owner or owners to erect upon the place of outspan, as above determined, in a conspicuous situation facing the road, a post, at least nine feet in height, with a board at the top containing an inscription in letters at least one inch in length and clearly legible at ten yards' distance, setting forth as follows:—"Public Outspan,

acres, beacons A, B, C, &c." And, further, it shall at all times be incumbent upon the said owner of such farm or piece of land (or in the event of the same being held in subdivisions) upon the owners of subdivisions thereof adjoining the outspan place, to maintain such post and plate, and beacons, in thorough repair, and inscriptions thereon in a legible condition, failing which the said owner or owners shall not have any claim in respect of any trespass committed on any grass land by any cattle belonging to any person outspanning on such farm or piece of land.

6. It shall be lawful for the owner or occupier of any farm or piece of land as aforesaid, upon the fulfilment of the conditions in the preceding section of this Law, and during the continuance of the fulfilment thereof, but not otherwise, to prevent any person or persons from outspanning on any other portion of his farm or piece of land which, subject to the provisions of this Law, will be freed from the servitude with regard to right of outspan contained in the title deed thereof.

7. In the event of its being represented to, and considered by, the Lieutenant Governor, that in the counties of Victoria, Durban, and Alexandra, the proportion of five acres per centum, for outspan purpose, is excessive, the Lieutenant Governor may, with the advice of the Executive Council, determine some lesser proportion for that purpose, with respect to any such county: Provided, however, that a number of land-owners, not less than twenty-five, resident in such county, shall have memorialised the Lieutenant Governor to that effect; and the Lieutenant Governor may, if he shall think fit, in any case, before deciding upon any such memorial, direct that enquiry be made upon the subject thereof.

8. In every case where a farm or piece of land shall be, or shall have been, subdivided and transferred, without fixing or determining

(A) As to the meaning of "it shall be lawful" see *Patullo v. Colonial Govt.* N.L.R. 1876, p. 22.

an outspan place on the same, as provided by this Law, and where the owners of the several subdivisions shall agree to set apart one or more particular portion or portions of such farm for an outspan place or places, and shall apply to the Lieutenant Governor for that purpose, it shall be lawful for the Lieutenant Governor to cause a portion or portions of such farm, in the proportion as set forth in clauses 2, 7, and 9, as the case may be, to be selected for outspan, including, if practicable, portions of two or more of such divided pieces of land, subject in every respect to the provisions of the preceding clauses of this Law.

Law 9, 1870.

9. Whenever it shall be represented to the Lieutenant Governor that, at the time of the passing of this Law, any original farm or piece of land, subject to the conditions of outspan, shall have been sold in several subdivided portions and extensively cultivated, without marking off any part of such land for the purposes of outspan, and that the setting aside, or marking off, of any portion of such subdivided plot or plots, will cause greater inconvenience and loss to the owner or owners thereof than would otherwise be the case, it shall be lawful for the Lieutenant Governor to cause such lands to be inspected, and the representation of the owner or owners thereof being found to be correct, to authorise the marking off, and setting aside, for the purposes of outspan, of one or more such outspan places, on any one or more of such subdivided portions of land, of a lesser extent than is required in Clause 2, if it shall appear to him that such diminution of the area required for outspan will not seriously impede or injure the traffic on such part of the road.

In certain cases Governor may authorise a diminution of area required for outspan places.

10. [Repealed by Law No. 14, 1872.]

11. It shall not be competent or lawful for any person, the owner or occupier of any farm or piece of land subject to right of outspan, to prevent any person or persons from outspanning on or near the public road on any part of such farm or piece of land, not being within three hundred yards of any homestead, and making use of any uncultivated portion thereof for the purpose of grazing, until a place of outspan is set apart and definitively maintained in the manner provided in this Law.

Effect of general servitude of outspan, where an outspan place is not established and maintained.

12. Any person, the owner or occupier of any farm or piece of land subject to right of outspan, who shall erect any post or board with the view to define or determine a place of outspan on such farm or piece of land as aforesaid, except on the lands as provided in this Law, and any person putting up a post or board with a view to prohibit persons from outspanning on land liable to such servitude shall be liable, on conviction, to a fine not exceeding £5, or in default of payment to imprisonment for any period not exceeding one month; and any person or persons who shall remove or damage any post, plate, or beacons lawfully erected as provided in this Law, shall, on conviction before any Resident Magistrate, be adjudged to pay a fine not exceeding £10, or, in default of payment, shall be imprisoned, with or without hard labour, for a period not exceeding two months.

Penalty on persons erecting notice-board relative to outspan, except as before mentioned.

13. Government parties, when employed in the construction or repair of public roads running through any private lands, shall have the right to outspan on any to them convenient spot on or near the road, not being within three hundred yards of any dwelling house, and to graze their cattle on all adjoining grass lands if unenclosed.

Penalty for removing or damaging notice-board or beacons.

Government road parties specially provided for.

14. Every outspan place set apart under the provisions of this Law shall, for the purpose of the second and sixth sections of Law No. 21, 1865, entitled Law "To prevent the indiscriminate burning of grass," be considered as public land; and the owner or owners of the farm or piece of land on which such outspan place was established shall,

Outspan places to be deemed "public land" within meaning of Grass-burning Law.

Law 9, 1870.

in the event of his or their wilfully or negligently burning grass on such outspan place, be amenable to the provisions of the said second and sixth sections of the Law No. 21, 1865, aforesaid (A).

All public roads declared to be 100 feet wide, and (if unfenced) loose cattle may travel 100 feet on either side;

certain roads excepted.

All Crown Lands declared subject to the servitude of outspan.

Reservation of servitude of outspan on alienation of Crown Lands.

Native reserves and locations liable to servitude of outspan, subject to certain rules.

"Outspan" and "cattle" defined.

Commencement Short title.

15. All the public roads shall be deemed, and are hereby declared, to be one hundred feet wide; and if unfenced, loose cattle and horses being driven along any public road may travel on either side of such road to a distance of at least 100 feet without being liable for trespass or for injury done to crops within that distance (B): provided the provisions of this clause shall not apply to any road which has been laid out upon the authority of the Surveyor General or Civil Engineer for the Colony, if of a less width than one hundred feet along that portion of the land which shall have been fenced previous to the passing of this Law.

16. All lands in the possession of the Crown in this Colony shall be and the same are hereby declared to be subject to the servitude of outspan, upon such regulations and conditions as the Lieutenant Governor, with the advice of the Executive Council, may with respect to the servitude of outspan generally from time to time establish and proclaim in the "GOVERNMENT GAZETTE."

17. In all future disposals of Crown lands by sale, rental, grant, or otherwise, being not less in extent than five hundred acres, the servitude of outspan shall be reserved in the instrument of conveyance or demise.

18. All lands set apart or granted as native reserves or locations shall be and the same are hereby declared to be liable to the servitude of outspan, anything in the title deeds thereof to the contrary notwithstanding: Provided always that the right of outspan upon such native reserves or locations shall be regulated, controlled, and governed by such rules as the Lieutenant Governor, with the advice of his Executive Council, may from time to time frame and establish, in accordance with the provisions of this Law, for the regulation of the general servitude of outspan.

19. The term "outspan" shall be understood to include the grazing and watering for a period not exceeding twenty-four hours, except in cases of accident or other unavoidable circumstance, of all animals used or driven by persons when travelling, ^{or being removed by} ~~and the term "cattle" shall include all animals so used or driven.~~ ^{place to another not less distant than 10 miles apart, and the term "cattle" shall include all animals so used or driven.}

20. This Law shall commence and take effect from and after the promulgation thereof in the "GOVERNMENT GAZETTE," and may for all purposes be cited as "Outspan Law, 1870" (c).

Law No. 14, 1872.

"To repeal Section 10 of Law 9, 1870, entitled Law 'For regulating Places of Outspan, and the rights of Travellers with respect to Roads and Outspan Places.'"

[3rd December, 1872.]

WHEREAS Section 10, of Law No. 9, 1870, entitled Law "For regulating Places of Outspan, and the rights of Travellers with respect to Roads and Outspan Places," has the effect of placing unnecessary difficulties in the way of transfers of sub-divisions of Farms which are subject to the servitude of Outspan, and through which a Public Road passes, and it is advisable to repeal such Section:

(A) See tit. "GRASS FIRES."

(B) But see Act 42, 1898, s. 10, tit. "POUNDS."

(C) Sept. 20, 1870.

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:— Law 14, 1872.

1. That the said Section 10 of Law No. 9, 1870, providing that "It shall not be lawful for any person or persons, the owner or owners of any farm or piece of land through which any Public Road passes, and is subject to right of Outspan, to sell, in sub-divisions, any such farm or piece of land, or effect transfer of the land so sold until, in conformity with the provisions of this Law, a Place of Outspan is set apart and defined; and unless the posts, and places, and beacons be kept in thorough repair, such farm or piece of land will become liable to the general right of Outspan contained in the title-deed thereof: Provided that nothing in this Clause contained shall affect or apply to any disposal of waste lands of the Crown made after the passing of this Law," shall be and the same is hereby repealed. Repeal of sec. 10, Law 9, 1870.

2. This Law shall commence and take effect from and after the promulgation thereof in the "GOVERNMENT GAZETTE" (A). Commencement

Act No. 15, 1896.

"To provide for the Acquisition of Lands for Outspan Places."

[12th June, 1896.]

WHEREAS it is expedient to make provision for the acquisition for hire, where necessary, of lands for Outspan purposes:

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:—

1. The Government of this Colony, by the Minister of Lands and Works for the time being, may enter upon and take for an annual rent charge such lands as may be required throughout the Colony for Outspan purposes, and for such time as may be necessary. Power to take lands.

2. No land shall be so taken under this Act from any farm or piece of land upon which a Public Outspan has been already established. Exempted lands.

3. Any land taken under this Act shall revert to the owner freed from the operation of this Act, in case he shall lay off an Outspan in terms of Laws No. 9 of 1870, and No. 14 of 1872. Reversion of land taken when an outspan is laid off.

4. Such annual rents and the expenses of survey and all other expenses incurred in carrying out the provisions of this Act, shall be paid out of the Public Revenue of the Colony. Expenses borne by the Revenue.

5. The "Lands Clauses Consolidation Law, 1872," is, except as varied by this Act, incorporated with this Act; and the taking of land for an Outspan Place under the provisions of this Act shall be deemed to be an undertaking within the meaning of the said Law. Incorporation of Lands Clauses Law.

6. All questions and disputes as to any rent charge under this Act shall be settled in like manner as questions and disputes relating to purchase money or compensation under the "Lands Clauses Consolidation Law, 1872." Settlement of disputes.

7. Any land taken for an Outspan Place under this Act may be fenced by and at the expense of the Government. Fencing of lands.

8. Nothing in this Act contained shall interfere with the provisions of Laws No. 9, 1870, and No. 14, 1872, or with any Outspan Places established thereunder, except that the taking and user of lands under Outspan Laws and Outspans, how far affected.

(A) Promulgated Dec. 10, 1872. This is entirely a repealing Law, but it will be noticed there are references to it in sections 3 and 8 of Act 15, 1896, post.

Law 15, 1896. this Act shall for the time being exempt the remainder of the farm from the servitude of Outspan.

PARDONS.

[See Law No. 9, 1876, tit. "CRIMINAL LAW," p. 17; see also Letters Patent of 20th July, 1893, Clause IX, tit "PARLIAMENT" (A).]

(A) As to the granting of pardon to a person condemned to suffer death, see Instructions to the Governor, dated 20th July, 1893, tit. "PARLIAMENT."

PARLIAMENT (A).

[For Acts of Parliament see "STATUTES."]

I. ELECTORS, ELECTIONS, MEMBERS, &c.

CHARTER OF NATAL (B)

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith. To all to whom these presents shall come, Greeting!

[15th July, 1856.]

11. Every man, except as hereinafter excepted, above the age of twenty-one years, who possesses any immovable property to the value of £50, or who rents any such property of the yearly value of £10, within any electoral district, and who is duly registered in manner hereinafter mentioned, shall be entitled to vote at the election of a member for such district (c). When any such property as aforesaid is occupied by more persons than one, as proprietors or renters, each of such occupants, being duly registered, shall be entitled to vote in respect to such property, provided the value, or, as the case may be, the rent thereof be such as would entitle each of such joint occupants to a vote, if equally divided among them (d).

Qualification of electors.

12. Aliens, not having been naturalised by some Act of the Imperial Parliament, or of the Legislature of Natal, and persons who shall have been convicted of any treason, felony, or infamous offence, and shall not have received a free pardon, shall not be qualified to vote, at any such election.

Disqualification of electors.

13. No person shall be capable of being elected member of the Legislative Council unless he shall be a duly qualified and registered elector of some electoral district in the Colony, nor unless he shall have been invited to become a candidate for such election, by at least ten electors of the county or borough which it is proposed he shall represent; nor unless such requisition shall have been transmitted to the Resident Magistrate of the county or borough, with a notification of the said candidate's acceptance thereof, at least fourteen days before such election is appointed to take place (e).

Qualifications of elective members.

14. If, in any electoral district, any person shall sign requisitions to more than one candidate for each vacancy in the Legislative Council, in respect to which he is entitled to a vote, his signature shall be expunged from all requisitions which he shall have so signed.

Requisition to candidates.

15. The Resident Magistrate shall, at least seven days before the

(A) This title is sub-divided as follows:—I. "ELECTORS, ELECTIONS, MEMBERS, &c.;" II. "PRIVILEGE OF PARLIAMENT;" III. "EXPENSES OF MEMBERS;" IV. "OFFICERS."

(B) This is what is referred to in Act 1, 1893, post as "the Letters Patent of 15th July, 1856." It was revoked by the Letters Patent of 20th July, 1893 (vide infra), but the clauses here set forth were revived by Act 1, 1893, post, subject to the amendments therein mentioned.

(c) See Law 2, 1883, post, conferring a "lodger" franchise.

(d) The general franchise conferred by this clause upon "every man" possessing the required qualification is modified by Laws 11, 1864, and 2, 1883, and Act 8, 1896, post, in the case of natives and other persons subject to special legal disabilities.

(e) The acceptance may be by telegraph, see Law 17, 1888, s. 4, tit. "TELEGRAPH." See also the next note.

Charter of Natal.

Fieldcornets to make lists of voters;

day appointed for the commencement of the poll, cause the said requisitions to be published for the information of the electors (A).

31. The Fieldcornet in every ward shall, at such time as may, by proclamation, be fixed by the Governor, make a true list in alphabetical order of all men, who shall be at such time qualified to vote at the first election for members of the Legislative Council, which shall take place under and by virtue of these presents, in respect of property within the said ward, stating the Christian and surname of each person at full length, the place of his abode, his business or quality, and the nature of his qualification, in the form set forth in the schedule hereto annexed, marked A.

and transmit to Magistrates.

32. The Fieldcornet shall forthwith transmit such list to the Resident Magistrate of the County, or Electoral District, in which such ward is situated.

Objections.

33. When the Resident Magistrate has received such lists from the Fieldcornet, he shall forthwith cause them to be published, and to every list so published he shall subjoin a notice that all objections thereto will be heard and determined by him, at such time, or times, as Our said Governor may, by proclamation, fix for that purpose (B).

Revision.

34. The Resident Magistrate, after hearing such objections, shall strike out of the lists all names which shall have been improperly inserted, and insert all names which shall have been improperly omitted therein, and shall take care that no one name is retained in more than one of the said lists.

List returned to Fieldcornet.

35. A copy of the list of voters in every ward so corrected, signed by the Resident Magistrate, shall be transmitted by him to the Fieldcornet of such ward, on such day as may be fixed by Our said Governor, by proclamation, for that purpose.

"Voters' Roll" valid for one year.

36. This list shall be called the "voters' roll" of the ward, and shall be the voters' roll of such ward, on such day as may be fixed by Our said Governor, by proclamation for that purpose, and shall continue to be used for one year then next ensuing.

Inspection of Roll.

37. Any person may inspect or take a copy of such roll gratuitously.

Voters' Roll amended each successive year.

38. The Fieldcornet in every ward shall, in like manner, on the 1st of July in every succeeding year, make a similar list of all men who shall be at such time qualified to vote for members of the Legislative Council, and the same proceedings shall be had and taken in respect thereof, as are hereinbefore specified, respecting the first election, and he shall give notice, as hereinbefore mentioned, that objections will be heard and determined at some time to be fixed before the twenty-first day of August then next ensuing, and the voters' roll shall be brought into use as hereinbefore mentioned, on the first day of September in every year.

Hours of Poll.

44. The poll in every ward shall, upon every day appointed therefor, commence at eight o'clock in the forenoon and close at four o'clock in the afternoon.

Place and duration of poll.

45. The poll shall be held at such place, and continue for such period, within each ward, as Our said Governor shall for that purpose appoint, by Proclamation under his hand (C).

Equality of votes.

50. In case of an equality of votes at any election, the returning officer shall determine by lot which of the persons shall be elected, for whom an equal number of votes have been given.

(A) See Law 18, 1892, sec. 1, post.

(B) Before hearing objections to the voters' list the Magistrate is bound to give notice of such hearing to the persons whose names have been objected to (*In re voters' list, Klip River*

Division, Ex pte. Schoeman and others, 17 N.L.R. 325). As to Supreme Court jurisdiction, see *In re Janion*, 13 N.L.R. 223.

(C) See Law 1, 1883, post.

53. And We do hereby give and grant to Our Governor, for the time being, of Our said Colony of Natal, full power and authority, with the advice and consent of Our said Executive Council, but subject to any law which may have been, or shall be, duly enacted by the Legislature of Our said Colony, to issue a Proclamation or Proclamations dividing Our said Colony into counties, wards, and townships, and to appoint the limits thereof respectively.

Charter of Natal.

Power to Governor to divide Colony into counties, wards and townships.

Law No. 11, 1865.

“Disqualifying certain Natives from exercising Electoral Franchise.”

[24th August, 1865.]

WHEREAS the numerous Natives residing in this Colony are, by the 28th article of Her Majesty's instructions given at Buckingham Palace on the 8th day of March, 1848, under the Royal Sign Manual and Signet, placed under special control, and made subject to their own laws, customs and usages, and are consequently only partially brought under the operation of the general Laws of the Colony: And whereas, by Her Majesty's Letters Patent given at Westminster the Fifteenth day of July, in the Twentieth Year of Her Majesty's Reign, erecting Natal into a separate Colony, and amongst other provisions therein contained constituting an Elective Legislative Council for the said Colony, it is by the said Letters Patent declared and ordained that every man above the age of twenty-one years, save and except certain persons disqualified by the provisions of the said Letters Patent, who possesses any immovable property to the value of £50, or who rents any such property of the yearly value of £10, and who is duly registered, shall be entitled to vote at the election of a member for the said Legislative Council: And whereas it is contemplated to grant to the said Natives documentary titles to certain lands within the said Colony by which many of the said Natives would become possessed of the property qualification required to exercise the electoral franchise under the said Letters Patent; and whereas it is deemed to be inexpedient that the said Natives should so largely and generally have the right of the electoral franchise, or that any of the said Natives should, so long as they continue subject to the special provisions of the aforesaid 28th article of Her Majesty's Instructions, exercise the said privilege: And whereas, by Law No. 11, of 1864, entitled “For relieving certain persons from the operation of Native Law,” provision is made whereby such natives as shall have advanced to a higher degree of civilisation shall be enabled, should they seem fit so to do, to take out certain letters of exemption by which they become exempted from the operation of Native laws, customs and usages, and in their persons and property become subject to the general Laws of the Colony: And whereas for the before cited reasons it is expedient by Law to exclude such of the Native population as shall continue subject to Native Law from claiming the electoral franchise, and to define which of the said Natives so exempted shall be entitled to claim the rights and privileges granted by the said Royal Letters Patent, and in these respects to alter or amend the provisions of the said Royal Letters Patent:

BE IT THEREFORE ENACTED by the Lieutenant Governor of the Colony of Natal, by and with the consent of the Legislative Council thereof, as follows:—

Law 11, 1865.

Natives not entitled to vote at election of members of Legislative Council, save as in this Law provided.

Native in certain cases may apply to Governor for certificate entitling to registration as elector.

Objections to natives' registration to be laid before Secretary for Native Affairs.

Governor may make rules.

Governor may grant or refuse application.

Such male native entitled to vote at elections.

Such native shall continue so entitled so long as otherwise qualified.

1. Every male native resident in this Colony or having the necessary property qualification therein, whether subject to the operation of the native laws, customs, and usages in force in this Colony or exempted therefrom save as in this Law is provided shall be disqualified from becoming a duly registered elector, and shall not be entitled to vote at the election of a member of the Legislative Council for any electoral district of the Colony of Natal (A).

2. Any male native inhabitant of this Colony who shall show to the satisfaction of the Lieutenant Governor that he has been resident in this Colony for a period of twelve years or that he has been occasionally resident therein equivalent to a twelve years' residence, and who shall possess the requisite property qualification, and shall have been exempted from the operation of Native Law for a period of seven years and who shall produce to the Lieutenant Governor a certificate signed by three duly qualified electors of European origin as near as may be to the form in Schedule A hereunto appended and endorsed by a Justice of the Peace or Resident Magistrate of the district in which such native resides, a statement to the effect that the Justice or Resident Magistrate endorsing said certificate has no reason to doubt the truth of said certificate, and that the persons signing it are credible persons, shall be entitled to petition the Lieutenant Governor of Natal for a certificate to entitle him to be registered as a duly qualified elector for that electoral division in the Colony in which such native may possess the requisite property qualification.

3. The Lieutenant Governor may direct that the application of any such native be published in the "GOVERNMENT GAZETTE" and call upon any person having objection to any such native becoming a duly qualified elector to submit such objection in writing to the Secretary for Native Affairs for the consideration of the Lieutenant Governor.

4. The Lieutenant Governor may make such rules and orders in and about the publication of any such application and receiving, and entertaining, and deciding upon any objection thereto, as may to him seem necessary.

5. The Lieutenant Governor may, at his discretion, grant or refuse to any native applying in manner aforesaid for such certificate, entitling him to be registered as a duly qualified elector: Provided always, no such certificate shall be granted unless it shall have been published in manner described in Clause 3, at least three months previous to the granting thereof.

6. Every male native who shall have been exempted from the operation of Native Law, customs and usages, for a period of seven years, and who shall have obtained a certificate from the Lieutenant Governor entitling such native to be registered as an elector, and who shall be possessed of the immovable property qualification required by any Law in force for the time being in that behalf, shall be entitled to be duly registered as an elector, and when registered shall be entitled to vote at the election of a member of the Legislative Council for such District in which he may possess such property.

7. Every male native to whom such certificate shall have been granted by the Lieutenant Governor shall, so long as he may possess the requisite property qualification, and who shall not be convicted of treason or of any infamous crime, or of any crime which, if committed in England would be felony, shall, subject to the provisions of Her Majesty's Letters Patent given at Westminster the fifteenth day of July, in the twentieth year of Her Majesty's reign, or any law in force for the time being in that behalf, be entitled to vote at the election of

(A) See Law 2, 1883, s. 6, post.

a member of the Legislative Council for the district in which he may possess such property qualification. Law 11, 1865.

8. This Law shall come into force and take effect on and after the publication by proclamation of the Lieutenant Governor in the "GOVERNMENT GAZETTE" of Her Majesty's assent to the same (A). Commencement

SCHEDULE A.

Certificate.

Schedule.

We,
 A. B., of
 C. D.,
 E. F.,
 being duly qualified electors of European origin, and entitled to vote at the election of a member of the Legislative Council for the district of _____, do hereby certify that we have known A. B., of _____, for a period of over two years, and that the said A. B. is a loyal and well-disposed subject of the Crown; and that he has not, to our knowledge, been convicted of treason or of any infamous crime, or of any crime which, if committed in England, would be felony; and we are not aware of any personal reason or of any impediment which should debar or prevent the said A. B. from being allowed to become entitled to vote for a member of the Legislative Council of the Colony of Natal.

A. B.,	Residence,	Profession.
C. D.		
E. F.		

Law No. 1, 1873.

"To re-adjust the Electoral Divisions of the Colony of Natal."

[12th July, 1873.]

WHEREAS by the Royal Charter of Natal, bearing date the 15th day of July, 1856, it is provided in the 51st Section thereof, that "it shall be lawful for the Lieutenant-Governor, with the advice of the Legislative Council to be constituted under and by virtue of these presents, to repeal, alter, or amend all or any of the provisions made by or in virtue of these presents, and to substitute other provisions in lieu thereof," under certain reservations; among others that every Law altering "The respective numbers of the elective and non-elective members of the Legislative Council," shall be reserved for the signification of Her Majesty's pleasure with respect thereto:

AND WHEREAS it is advisable to alter the respective numbers of the elective and non-elective members of the Legislative Council:

BE IT THEREFORE ENACTED by the Lieutenant Governor, with the advice and consent of the Legislative Council:

1. That Clause 7 of the said Charter shall be, and is hereby repealed, and in lieu thereof shall be substituted as Clause 7 the words following: "That the Legislative Council of Natal shall consist of twenty members, of whom fifteen shall be elective, and five non-elective" (B).

Constitution of Legislative Council altered.

2. [Repealed by Law No. 1, 1883.]

(A) May 1, 1866. is not one of the clauses revived by Act 1, 1893, and this section is now obsolete.
 (B) Clause 7 of the Charter of Natal

Law 1, 1873.

First elections for new electoral districts provided for.

3. For the purpose of a first election of a member for the new Electoral District Counties of Alexandra and Alfred, the Voters' List for the County of Durban shall be deemed the list of persons qualified to vote at such first election. For the purpose of the first election of a member for the new Electoral District of the Division of Newcastle, the Voters' List for the County of Klip River shall be deemed the list of persons qualified to vote at such first election for such Division.

Commencement

4. This Law shall commence and take effect from and after the promulgation thereof in the "GOVERNMENT GAZETTE" (A).

Law No. 1, 1883.

"To Amend the Constitution of Natal."

[29th March, 1883.]

WHEREAS by the Royal Charter of Natal, bearing date the 15th day of July, 1856, it is provided, in the 51st Section thereof, that it shall be lawful for the Governor, with the advice of the Legislative Council to be constituted thereunder and by virtue thereof, to repeal, alter, or amend all or any of the provisions made by or in virtue thereof, and to substitute other provisions in lieu thereof, under certain reservations, amongst others that every Law altering the respective numbers of the elective and non-elective members of the Legislative Council shall be reserved for the signification of Her Majesty's pleasure with respect thereto:

AND WHEREAS by Law No. 1, 1873, Section 1, it is provided and enacted that the Legislative Council of Natal shall consist of twenty members, of whom fifteen shall be elective and five non-elective:

AND WHEREAS it is expedient to increase the number of members of the Legislative Council; and for such purposes to amend the said Charter and the said recited Law:

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

Short title.

1. This Law may be cited as the "Constitution Amendment Law of 1882."

Save so far as in conflict, former Laws and Charters in force.

2. Save so far as in conflict with this Law, all former Laws and Charters now existing shall be deemed to remain in force.

Amendment of Law 1, 1873.

3. The Law No. 1, 1873, shall be and the same is hereby amended by substituting thirty instead of twenty as the total number of members of the Legislative Council of Natal, of whom twenty-three shall be elective and seven shall be non-elective (B).

Repeal.

4. Clause 2 of Law 1 of 1873 (except in so far as it repeals Clause 10 of the said Charter) is hereby repealed.

Number of elective members and districts for which to be elected.

5. The twenty-three elective members shall be chosen by the electors of the following ten electoral districts (C):—

(A) July 15, 1873.

(B) This section is inoperative, as Law 1, 1873, is obsolete.

(C) See Law 14, 1893, post, reconstituting the Legislature and virtually repealing sections 5, 6, 7 and 8 of this Law.

Electoral Districts.	Number of Members.	Law 1, 1883.
1. County of Klip River (exclusive of the Division of Newcastle)	2	
2. Division of Newcastle	2	
3. County of Weenen	2	
4. County of Umvoti	2	
5. County of Pietermaritzburg	3	
6. County of Durban	2	
7. Counties of Alexandra and Alfred	1	
8. County of Victoria	3	
9. Borough of Pietermaritzburg	3	
10. Borough of Durban	3	
Total	23	

6. The eight additional elective members shall, within two months after the promulgation of this Law, be elected in the manner provided by the Charter for filling vacancies of elective seats, until such time as under a general election the return shall be made as elsewhere provided in the Charter. Additional elective members, how to be elected.

7. So soon as the additional elective members to serve in the present Council shall have been returned, the Governor shall be and he is hereby empowered to nominate and appoint two non-elective members, in addition to those who are already members of the Council, to have seats therein. The two additional members shall hold their office during the Royal pleasure; they shall not be members of the Public Service of the Colony; they shall have been on the voters' roll for at least two years immediately prior to their appointment; and they shall possess immovable property, situate within the Colony of Natal, of the value of £1,000, after deducting all mortgages and encumbrances; and such two members shall be subject to the provisions of the 18th and 19th Clauses of the Charter (A). Additional non-elective members, how appointed and how to hold office.

Qualifications of the two additional non-elective members.

8. The Legislative Council shall not be competent to proceed to the despatch of business unless ten members shall be present. Quorum of Legislative Council.

9. Clause 42 of the Charter shall be and is hereby amended by substituting the word "more" for the word "two" (B). Clause 42 of Charter amended.

10. [Repealed by Law No. 29, 1887.]

11. It shall be lawful for the Governor, by proclamation, to appoint in any ward as many polling-places as the circumstances of the ward may appear to require: also to appoint persons to preside at such additional polling-places; and each such person when appointed shall be a Field-Cornet or Officer within the meaning of the 40th section of the Charter. Governor may appoint any number of polling places in any ward.

12. If at any time at any election in any of the constituencies there shall be no more candidates than the number of persons to be elected, such candidates, if in other respects competent under the Charter, shall be deemed and declared to be duly elected, without recourse to a poll; and such declaration shall be made by the Resident Magistrate as soon as may be after the expiry of the period in which requisitions are required by the 13th Clause of the Charter to be transmitted to the Resident Magistrate. When no more candidates than number of persons to be elected, they shall be declared duly elected without a poll.

13. This Law shall commence and take effect from and after the date of the promulgation of Her Majesty's assent thereto. Commencement

(A) This clause and clause eight are obsolete.

(B) Clause 42 of the Charter is not revived by Act 1, 1893, post.

Law No. 2, 1883.

"To Amend the Franchise."

[29th March, 1883.]

WHEREAS by the Royal Charter of Natal, bearing date the 15th day of July, 1856, it is provided, in the 51st Section thereof, that it shall be lawful for the Governor, with the advice of the Legislative Council to be constituted thereunder and by virtue thereof to repeal, alter, or amend all or any of the provisions made by or in virtue thereof, and to substitute other provisions in lieu thereof, under certain reservations, amongst others that every Law altering the respective numbers of the elective and non-elective members of the Legislative Council shall be reserved for the signification of Her Majesty's pleasure with respect thereto:

AND WHEREAS it is expedient to amend the Franchise; and for such purpose to amend the said Charter and subsequently enacted Laws:

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

Short title.

1. This Law may be cited as the "Franchise Amendment Law of 1882."

Former Laws, &c., in force.

2. Save so far as in conflict with this Law, all former Laws and Charters now existing shall be deemed to remain in force.

Qualifications of electors.

3. Every male inhabitant, of three years' residence in the Colony of Natal, whose income, inclusive of allowances, is equal to £8 per month, or £96 per annum, who may be disqualified as an elector under the Charter of Natal on the sole ground of his not possessing the property or rental qualification required by the eleventh clause of said Charter, may cause himself to be enrolled by the Field Cornet of his Borough or Ward on the list of men qualified to vote for members of the Legislative Council.

Electors qualified under the Law, how to claim franchise.

4. Every person claiming the franchise under the last preceding section, shall deliver to the Field Cornet of the Borough or Ward in which he resides (or other person who may be specially appointed for the purpose) in the month of June in each year in which the franchise may be claimed under this Law an application following as near as may be the form given in the Schedule hereto annexed, and such application shall be signed by the applicant, and shall set out his full name, place of abode, and business or quality, and shall also set out that the applicant is a British subject, or, as the case may be, a naturalised alien, and shall also contain a statement that the applicant has resided in the Colony of Natal for the period of three years, and in the said Borough or Ward for at least six months out of the previous seven months, and that his income, inclusive of allowances, is equal to £8 per month, or £96 per annum. Any such applicant who shall wilfully make a false statement in the said application shall forfeit One Hundred Pounds, and be for ever disqualified from voting at any election within this Colony.

Instructions to Field Cornets in making up Voters' Lists.

5. On receipt by the Field Cornet (or other person who may be specially appointed for the purpose) of applications made in terms of this Law, he shall enrol the names of the applicants on the list required by the 38th Section of the said Charter, and shall enter the qualification of each such applicant as that of a lodger.

Persons subject to special laws and tribunals not to vote, unless they possess letters of exemption granted by Governor.

6. No person belonging to a class which is placed by special legislation under the jurisdiction of special courts, or is subject to special laws and tribunals, shall be entitled to be placed on the Voters' List, or to vote at the election of any member of the Legislative Council: Provided that any such person may be exempted from the

operation of this clause by letters of exemption granted to such person by the Governor of the Colony: Provided further, however, that no such letters of exemption shall be granted except upon an application, both written in English or Dutch and signed in European characters by the applicant in the presence of a Resident Magistrate, a Justice of the Peace, or other person appointed for this purpose by the Governor, showing to the satisfaction of the Governor that the applicant is a British subject, or a naturalised alien, that he has resided in the Colony for three years, and in the same Borough or Ward for six months out of seven months preceding the date of application, and that he has not been convicted of any treason, felony, or infamous offence, or that, if convicted, he has received a free pardon: Provided such applicant shall have the qualification required by the Charter of Natal or by the 3rd Section of this Law, and shall, if a Native, have been exempted from the operation of Native Law. If any person shall in such application make any wilfully false statement, such person shall forfeit One Hundred Pounds, and be for ever disqualified as an elector of Natal (A).

Law 2, 1883.
Letters of exemption, how obtainable.

7. This Law shall be construed conjointly with the Charter of Natal, and all clauses of such Charter repugnant to this Law shall be and the same are hereby repealed.

This Law to be construed with Charter.

8. This Law shall commence and take effect from and after the date of the promulgation of Her Majesty's assent thereto.

Commencement

SCHEDULE.

To the Field Cornet of the Borough of _____ (or, Schedule.
as the case may be, of Ward No. _____ of the Electoral District
of _____), Natal.

SIR,—I request that you will enter my name in the list, to be prepared by you in terms of the 38th Section of the Charter of Natal, of men qualified to vote for members of the Legislative Council.

I am a British subject, or (as the case may be) a naturalised alien. I have resided in this Colony _____ years, and in your Borough (or Ward) for six months out of the last seven months.

My income, inclusive of allowances, is equal to £8 sterling per month, or £96 per annum.

My full name is

My place of abode is

My business or quality is

My qualification is that of a lodger.

(Signature.)

Dated this _____ day of _____ 18

Law No. 28, 1887 (B).

“To alter and subdivide the Electoral District of Pietermaritzburg County.”

[9th March, 1887.]

WHEREAS it is desirable that the Electoral District of the County of Pietermaritzburg should be subdivided into three Electoral Districts:

(A) See Act 8, 1896, post.

(B) See Law 14, 1893, post, reconstituting the Legislature.

Law 28, 1887.

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

Former Laws and Charters to remain in force.

1. Save so far as in conflict with this Law, all former Laws and Charters now existing shall be deemed to remain in full force and effect, notwithstanding the passing thereof.

District of County of P.M. Burg to cease to return members.

2. From and after the end of this present Legislative Council the Electoral District of the County of Pietermaritzburg shall cease to be an Electoral District for the purposes of returning members to serve in the Legislative Council of Natal.

District to be subdivided.

3. From and after the end of this present Legislative Council the Electoral District of the County of Pietermaritzburg shall be subdivided into three Electoral Districts:—

The first to be named and called the Electoral District of Umgeni.

The second to be named and called the Electoral District of Lion's River.

The third to be named and called the Electoral District of Ixopo.

Umgeni District to return one member.

4. From and after the end of this present Legislative Council the Electoral District of Umgeni shall return one member to serve in the Legislative Council of Natal (A).

District of Ixopo to return one.

5. From and after the end of this present Legislative Council the Electoral District of Ixopo shall return one member to serve in the Legislative Council of Natal.

District of Lion's River to return one.

6. From and after the end of this present Legislative Council the Electoral District of Lion's River shall return one member to serve in the Legislative Council of Natal.

Voters' List for Umgeni District

7. For the purposes of any election of a member for the Electoral District of Umgeni before the first day of September, 1887, the Voters' List now in force for the said Wards No. 1 and No. 6 shall be deemed to be the list of persons qualified to vote at any such election for the Electoral District.

Voters' List for Lion's River District.

8. For the purposes of any election of a member for the Electoral District of Lion's River before the 1st day of September, 1887, the Voters' List now in force for the said Wards No. 2, No. 3, and No. 4, shall be deemed to be the list of persons qualified to vote at any such election for the Electoral District.

Voters' List for Ixopo District.

9. For the purposes of any election of a member for the Electoral District of Ixopo before the first day of September, 1887, the Voters' List now in force for the said Wards No. 5 and No. 7 shall be deemed to be the list of persons qualified to vote at any such election for the Electoral District.

Governor in Council to fix boundaries of Electoral Districts.

10. The Governor in Council may specify and determine the boundaries of such Electoral Districts respectively, by Proclamation in the "GOVERNMENT GAZETTE," and until so specified and determined the boundaries fixed and appointed by the Proclamation of 23rd May, 1874, for the Wards No. 1 and No. 6 of the County or Electoral District of Pietermaritzburg shall be the boundaries of the Electoral District of Umgeni, and the said new Electoral District of Umgeni shall be composed of and shall extend over the said Wards No. 1 and No. 6 of the said County of Pietermaritzburg.

Boundaries of Umgeni District.

Boundaries of Lion's River District

11. The boundaries fixed and appointed by the said Proclamation for the Wards No. 2, No. 3, and No. 4 of the County or Electoral District of Pietermaritzburg, shall be the boundaries of the Electoral District of Lion's River, and the said Electoral District of Lion's River shall be composed of, and shall extend over, the said Wards No. 2, No. 3, and No. 4 of the said County of Pietermaritzburg.

(A) See sec. 22 of Law 14, 1893.

12. The boundaries fixed and appointed by the said Proclamation for the Wards No. 5 and No. 7 of the County or Electoral District of Pietermaritzburg, shall be the boundaries of the Electoral District of Ixopo, and the said Electoral District of Ixopo shall be composed of, and shall extend over, the said Wards Nos. 5 and 7 of the said County of Pietermaritzburg.

Law 28, 1887.
Boundaries of Ixopo District.

13. All writs to be issued for the election of members of the Legislative Council under this Law, and all appointments of officers, and all proceedings relative to such elections, and to the registration of votes, shall be framed, made, and expressed in such manner as may be necessary for carrying into effect the provisions of this Law, and subject to the provisions of this Law the Charters and Laws now in force relating to all election purposes shall remain in full force and effect, and shall apply, as nearly as circumstances admit, to any constituency created or authorised under this Law to return a member to serve in the Legislative Council, to the same extent and in the like manner as if such Electoral District had before returned such member to the Legislative Council.

Framing of writs and making of appointments under this Law.

Laws and Charters now in force to apply, as far as possible, to constituencies created hereunder.

14. This Law shall not come into operation unless and until the Officer Administering the Government notifies by Proclamation that it is Her Majesty's pleasure not to disallow the same, and thereafter it shall come into operation upon such day as the Officer Administering the Government shall notify by the same or any other Proclamation (A).

Commencement

Suspending Clause.

Law No. 29, 1887.

“To amend the Law relating to elections of Elective Members of the Legislative Council.”

[14th March, 1887.]

WHEREAS it is desirable to introduce voting by ballot and with that object to amend the Laws as to the voting at Elections of Elective Members of the Legislative Council of this Colony:

BE IT THEREFORE ENACTED by the Governor of the Colony of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

1. From and after the end of the present Legislative Council, in all elections of members to serve in the Legislative Council (B) the votes shall be given by ballot. The ballot of each voter shall consist of a paper (in this Law called a ballot paper) showing the names and description of the candidates. Each ballot paper shall have a number printed on the back, and shall have attached a counterfoil with the same number printed on the face. At the time of voting the ballot paper shall be marked on both sides with an official mark (c), and delivered to the voter within the polling station, and the number of such voter on the register of voters shall be marked on the counterfoil, and the voter having secretly marked his vote on the paper, and

Introduction of Voting by ballot.

(A) Took effect June 18, 1887. Vide Pn. in G.G. dated June 28, 1887.

(B) See Law 14, 1893, secs. 3 and 24, post.

(C) This Law is drawn on the model of the Ballot Act, 1872 (35 & 36, Vic. c. 33) many of the sections being identical. But where English decisions are cited in these notes it will be understood that they are based on the Imperial Statute, and a comparison of

the respective wordings should be made.

An action lies against a presiding officer by a party who loses an election through votes given for him being void for want of the official mark (*Pickering v. James*, L.R., 8 C.P. 489); but a ballot paper is not void for not having the official mark on the face of it (*Ackers v. Howard*, 16 Q.B.D. 739; 55 L.J., Q.B. 273).

Law 29, 1887. folded it up so as to conceal his vote, shall place it in a closed box in the presence of the officer presiding at the polling station (in this Law called the "Presiding Officer") after having shown him the official mark at the back.

Invalidation of ballot papers. 2. Any ballot paper which has not on its back the official mark, or on which votes are given to more candidates than the voter is entitled to vote for, or on which anything, except the said number on the back, is written or marked by which the voter can be identified, shall be void and not counted (A).

Procedura after close of poll. 3. After the close of the poll the ballot boxes shall be sealed up, so as to prevent the introduction of additional ballot papers, and shall be taken charge of by the returning officer, and that officer shall, in the presence of such agents, if any, of the candidates as may be in attendance, open the ballot boxes, and ascertain the result of the poll by counting the votes given to each candidate, and shall forthwith declare to be elected the candidates or candidate to whom the majority of votes have been given, and return their names to the Colonial Secretary. The decision of the returning officer as to any question arising in respect of any ballot paper shall be final, subject to reversal on petition questioning the election or return.

Counting the votes.

Return.

Offences in respect of ballot papers and ballot box. 4. Every person who

- (1) Forges or counterfeits, or fraudulently defaces or fraudulently destroys any ballot paper, or the official mark on any ballot paper; or
- (2) Without due authority supplies any ballot paper to any person; or
- (3) Fraudulently puts into any ballot box any paper other than the ballot paper which he is authorised by law to put in; or,
- (4) Fraudulently takes out of the polling station any ballot paper; or,
- (5) Without due authority destroys, takes, opens, or otherwise interferes with any ballot box or packet of ballot papers then in use for the purposes of the election (B),

Punishment. shall be guilty of a crime or offence, and be liable, if he is a returning officer, or a presiding officer, or an officer or clerk in attendance at a polling station, to imprisonment for any term not exceeding two years, with or without hard labour, and if he is any other person, to imprisonment for any term not exceeding six months, with or without hard labour.

Attempted offences. Any attempt to commit any offence specified in this section shall be punishable in the manner in which the offence itself is punishable.

In indictment property to be laid in returning officer. In any indictment or other prosecution for an offence in relation to the ballot boxes, ballot papers and marking instruments at an election, the property in such papers, boxes, and instruments may be stated to be in the returning officer at such election as well as the property in the counterfoils.

Secrecy of voting. 5. Every officer, clerk, and agent in attendance at a polling station shall maintain, and aid in maintaining, the secrecy of the voting in such station, and shall not communicate, except for some purpose authorised by law, before the poll is closed, to any person any

(A) See *Woodward v. Sarsons*, L.R. 10 C.P. 733. See also *The Weenen County Election Petition*, 13 N.L.R. 284; *The*

Newcastle Election Petition, 13 N.L.R. 300. (B) Law 18, 1892, post, adds a further sub-section.

information (A) as to the name or number on the register of voters of any elector who has or has not applied for a ballot paper, or voted at that station, or as to the official mark; and no such officer, clerk, or agent, and no person whosoever, shall interfere with, or attempt to interfere with, a voter when marking his vote, or otherwise attempt to obtain in the polling station information as to the candidate for whom any voter in such station is about to vote or has voted, or communicate at any time to any person any information obtained in a polling station as to the candidate for whom any voter in such station is about to vote or has voted, or as to the number on the back of the ballot paper given to any voter at such station. Every officer, clerk, and agent in attendance at the counting of the votes shall maintain, and aid in maintaining, the secrecy of the voting, and shall not attempt to ascertain at such counting the number on the back of any ballot paper, or communicate any information obtained at such counting as to the candidate for whom any vote is given in any particular ballot paper. No person shall, directly or indirectly, induce any voter to display his ballot paper after he shall have marked the same, so as to make known to any person the name of the candidate for or against whom he has so marked his vote.

Law 29, 1887.

Every person who acts in contravention of the provisions of this section shall be liable, on summary conviction before any Resident Magistrate, to imprisonment for any term not exceeding six months, with or without hard labour.

Penalty.

6. At any election for any electoral district, a person shall not be entitled to vote unless his name is on the voters' list for the time being in force for such electoral district, and every person whose name is on such voters' list shall be entitled to demand and receive a ballot paper and to vote (B).

Qualification to vote.

7. Subject to the provisions of this Law, every returning officer shall provide such polling stations, ballot boxes, ballot papers, stamping instruments, copies of voters' lists, and other things, at each and every appointed polling place, appoint and pay such officers (C), and do such other acts and things as may be necessary for effectually conducting an election in manner provided by this Law. All expenses properly incurred by any returning officer in carrying into effect the provisions of this Law, in the case of any election of elective members of the Legislative Council, shall be payable out of and be a charge upon the general revenue of the Colony.

Duties of returning officer.

8. If any person misconducts himself in the polling station, or fails to obey the lawful orders of the presiding officer, he may immediately, by order of the presiding officer, be removed from the polling station by any constable in or near that station, or any other person authorised in writing by the returning officer to remove him; and the person so removed shall not, unless with the permission of the presiding officer, again be allowed to enter the polling station during that day.

Misconduct in polling station.

Any person so removed as aforesaid, if charged with the commission in such station of any offence, may be kept in custody until he can be brought before a Resident Magistrate: Provided that the powers conferred by this section shall not be exercised so as to prevent any elector who is otherwise entitled to vote at any polling station from having an opportunity of voting at such station.

(A) Cf. Ballot Act, 1872, s. 4. The offence of communicating information is not committed unless the alleged offender actually makes known the information to another person; it is not

sufficient that he merely gives the means of acquiring information (*Stannanought v. Hazeldine*, 4 C.P.D. 191).

(B) Cf. sec. 7 of 35 & 36 Vic. c. 33.

(C) See *Bale v. Barter*, 14 N.L.R. 256

Law 29, 1887.

Questions to be asked of, and declaration to be administered to, voters.

9. Any presiding officer and any clerk appointed by the returning officer to attend at a polling station shall have the power of asking the questions and administering the form of declaration hereunder authorised to be asked of and administered to voters, and any Justice of the Peace and any returning officer may take and receive any declaration authorised by this Law to be taken before him:—

FORM OF DECLARATION.

Form of declaration.

You do affirm [or declare as the case may be] that you are the same person whose name appears as A. B. in the list of Voters now in force for the electoral district of _____, and that you have not voted here or elsewhere at the present election for the electoral district of _____

Misconduct of returning officer

10. Every returning officer, presiding officer, and clerk, who is guilty of any wilful act or omission in contravention of this Law shall, in addition to any other penalty or liability to which he may be subject, forfeit to any person aggrieved by such act or omission a penal sum not exceeding One Hundred Pounds.

Secrecy of poll to be maintained.

11. No person who has voted at an election shall, in any legal proceeding to question the election or return, be required to state for whom he has voted (A).

Certain omissions and mistakes not to invalidate election.

12. No election shall be declared invalid by reason of a non-compliance with the rules contained in the First Schedule to this Law, or any mistake in the use of the forms in the Second Schedule to this Law, if it appears to the tribunal having cognisance of the question that the election was conducted in accordance with the principles laid down in the body of this Law, and that such non-compliance or mistake did not affect the result of the election (B).

This Law to be construed with Royal Charter of 1856 and other laws in force.

13. This Law shall, so far as is consistent with the tenour thereof, be construed as one with the provisions of the Royal Charter of Natal, bearing date the 15th day of July, 1856, and any other laws for the time being in force relating to the election of elective members of the Legislative Council, and in construing the said Royal Charter and Laws relating to an election or to the poll or taking the votes by poll, the mode of election and of taking the poll established by this Law shall be deemed to be substituted for the mode of election or poll or taking the votes by poll referred to in the said Royal Charter and Laws; and any person applying for a ballot paper under this Law shall be deemed to tender his vote.

Offence of personation, aiding, counselling, &c.

14. The following enactments shall be made with respect to personation at the elections of Elective Members of the Legislative Council, held and coming within the provisions of this Law:—

A person shall, for all the purposes of the Laws relating to elections by this Law provided for, be deemed to be guilty of the offence of personation who, at an election held and coming within the provisions of this Law, applies for a ballot paper in the name of some other person, whether that name be that of a person living or dead,

(A) This does not mean that a witness shall not be asked for whom he has voted, but that he shall not be compelled to answer—per Wragg, J., in *The Weenen County Election Petition*, 13 N.L.B. 292.

(B) Cf. sec. 13 of 35 & 36 Vic. c. 33. In order to render an election invalid under that section, the non-compliance or mistake must have been so great as to amount to a conducting the election

contrary to the principle of ballot (*Woodward v. Sarsons*, L.R. 10 C.P. 733; 44 L.J., C.P. 293; and see s. 18 post, and footnote to "Form of Ballot Paper" in the Second Schedule to this Law). In *The Hackney Case* (2 O.M. & H. 77), an election was held void on the ground of no poll having been taken at two polling stations, the returning officer not having provided ballot boxes enough.

or of a fictitious person, or who having voted once at any such election applies at the same election for a ballot paper in his own name (A). Law 29, 1887.

The offence of personation, or of aiding, abetting, counselling, or procuring the commission of the offence of personation by any person, shall be an offence, and any person convicted thereof shall be punished by imprisonment for a term not exceeding two years, together with hard labour. It shall be the duty of the returning officer to institute a prosecution against any person whom he may believe to have been guilty of personation, or of aiding, abetting, counselling, or procuring the commission of the offence of personation by any person at the election for which he is returning officer; and the costs and expenses of the prosecutor and the witnesses in such case, together with compensation for their trouble and loss of time, shall be allowed by the Court. Punishment.

If on the trial of any election petition questioning the election or return for any electoral district any candidate is found by the report of the Judge, by himself or his agents to have been guilty of personation, or by himself or his agents to have aided, abetted, counselled, or procured the commission at such election of the offence of personation by any person, such candidate shall be incapable of being elected or sitting in the Legislative Council for such electoral district during the Session then in existence. Disqualification of candidate.

15. Where a candidate, on the trial of an election petition under the provisions of "The Elections' Petitions Law, 1883" (B), claiming the seat for any person, is proved to have been guilty, by himself or by any person on his behalf, of bribery, treating, or undue influence in respect to any person who voted at such election, or where any person retained or employed for reward by or on behalf of such candidate for all or any of the purposes of such election, as agent, clerk, messenger, or in any other employment, is proved at such trial to have voted at such election, there shall, on a scrutiny, be struck off from the number of votes appearing to have been given to such candidate one vote for every person who voted at such election and is proved to have been so bribed, treated, or unduly influenced, or so retained or employed for reward as aforesaid (C). Bribery, treating &c.

16. [Repealed by Law No. 18, 1892.]

17. When an election shall take place under the provisions of this Law, the moneys so paid as aforesaid to the Resident Magistrate by such candidate as shall not afterwards have received at the said election a number of votes equal at least to one-fifth part of the votes received by the successful candidate, if only one, or by such one of the successful candidates if there shall be more than one, as shall have received the smallest number of votes, shall be forfeited and be paid over to the Colonial Treasurer to the General Revenue; and after every election the said Resident Magistrate shall pay to each of the candidates who shall have been returned without a poll, or who shall have received a number of votes equal at least to such fifth part, whether declared elected or not, the money so paid by or for him or them respectively. Disposal of deposit.

(A) Cf. s. 24 of The Ballot Act, 1872. See *Reg. v. Fox*, 16 Cox, C.C. 166; *Isaacson v. Durrant*, 54 L.T. 684; in both of which cases the charge of personation failed.

(B) Repealed and re-enacted by Act 19, 1895, post.

(C) Cf. s. 25 of The Ballot Act, 1872. The bribery contemplated by that section is a corrupt bargain made with an elector, by or on behalf of a candidate, and it is necessary, under the section, to prove a guilty intent in the voter (*Maledon v. Parry*, L.R., 9 C.P. 610; 43 L.J., C.P. 331).

Law 29, 1887.

Schedules, how
to be construed,
Interpretation
of terms.

18. Schedules to this Law, and the notes thereto and directions therein, shall be construed and have effect as part of this Law (A).

19. In this Law, and the Schedule thereof, the words "Returning Officer," shall mean the officer for the time being appointed as such by the Governor, for the Electoral District in which any election takes place. The words "Presiding Officer" shall mean the "Fieldcornet" or other officer appointed by the Returning Officer for the purpose of taking the poll. The word "Agents" shall mean and include Scrutineer.

Short title.

20. This Law may be cited as "The Ballot Law, 1886."

Repeal of sec.
10, Law 1, 1883.

21. The tenth section of the Constitution Amendment Law, 1882, shall be and the same is hereby repealed, and in lieu thereof the following section is substituted:—Any elector on the Voters' List for any electoral district may record his vote at any election for a member to serve in the Legislative Council of Natal for such electoral district at any polling place appointed in any ward of such electoral district.

Commencement

22. This Law shall not come into operation unless and until the Officer administering the Government notifies by Proclamation that it is Her Majesty's pleasure not to disallow the same, and thereafter it shall come into operation upon such day as the Officer Administering the Government shall notify by the same or any other proclamation (B).

FIRST SCHEDULE.

Schedules.

Polling stations
to have proper
compartments.

1. Each polling place or station, appointed under the provisions of the Royal Charter, 1856, shall be furnished with such number of compartments, in which the voters can mark their votes screened from observation, as the returning officer thinks necessary, so that at least one compartment be provided for every one hundred and fifty electors entitled to vote at such polling station.

2. A separate room or separate booth may contain a separate polling station, or several polling stations may be constructed in the same room or booth.

Materials for
marking,
stamping, &c.

3. The returning officer shall provide each polling station with materials for voters to mark the ballot papers, with instruments for stamping thereon the official mark, and with copies of the register of voters, or such part thereof as contains the names of the voters allotted or entitled to vote at such station. He shall keep the official mark secret, and an interval of not less than seven years shall intervene between the use of the same official mark at elections in the same electoral district.

Presiding
officer.

4. The returning officer shall appoint a presiding officer to preside at each station, and the officer so appointed shall keep order at his station, shall regulate the number of electors to be admitted at a time, and shall exclude all other persons except the clerks, the agents of the candidates, and the constables on duty (c).

Form of
ballot paper.

5. Every ballot paper shall contain a list of the candidates described as in their respective duly accepted requisitions, and arranged alphabetically in the order of their surnames, and (if there are two or more candidates with the same surname) of their other names; it shall

(A) Held, in respect of a similar provision in 35 & 36 Vic. c. 33 (section 28) that the schedules are to a certain extent directory only, and it is sufficient if they be complied with substantially (*Woodward v. Sarsons*, L.R., 10 C.P. 733: and see s. 12 of this Law).

(B) Took effect June 18, 1887. Vide Pn. in G.G. dated June 28, 1887.

(c) But the candidate himself has a general right to be present, and not merely a qualified right to be present for the purpose of undertaking the duties of an agent, or of assisting his agent (*Clementson v. Mason*, L.R. 10 C.P. 209; 44 L.J., C.P. 171: and see s. 8, ante, and rule 33, post.

be in the form set forth in the Second Schedule to this Law, or as near thereto as circumstances admit, and shall be capable of being folded up.

Law 29, 1887.
Schedules.

6. Every ballot box shall be so constructed that the ballot papers can be introduced therein but cannot be withdrawn therefrom without the box being unlocked. The presiding officer at any polling station, just before the commencement of the poll, shall show the ballot box empty to such persons, if any, as may be present at such station so that they may see that it is empty, and shall then lock it up, and place his seal upon it in such manner as to prevent its being opened without breaking such seal, and shall place it in his view for the receipt of ballot papers, and keep it so locked and sealed.

Ballot box.

7. Immediately before a ballot paper is delivered to an elector it shall be marked on both sides with the official mark (A), either stamped or perforated, and the number, name, and description of the elector, as stated in the copy of the voters' list, shall be called out, and the number of such elector shall be marked on the counterfoil, and a mark shall be placed in the voters' list against the number of the elector, to denote that he has received a ballot paper, but without showing the particular ballot paper which he has received.

Official mark.

8. The elector, on receiving the ballot paper, shall forthwith proceed into one of the compartments in the Polling Station, and there mark his paper, and fold it up so as to conceal his vote, and shall then put his ballot paper, so folded up, into the ballot box; he shall vote without undue delay, and shall quit the Polling Station as soon as he has put his ballot paper into the ballot box.

Mode of voting.

9. The presiding officer, on the application of any voter who is incapacitated by blindness, or other physical cause, from voting in manner prescribed by this Law (B), or of any voter who makes such a declaration as hereinafter mentioned, that he is unable to read, shall, in the presence of the agents of the candidates, cause the vote of such voter to be marked on a ballot paper in manner directed by such voter, and the ballot paper to be placed in the ballot box, and the name and number on the list of voters of every voter whose vote is marked in pursuance of this rule, and the reason why it is so marked, shall be entered on a list, in this Law called "the list of votes marked by the presiding officer." The said declaration in this Law referred to as "the declaration of inability to read," shall be made by the voter at the time of polling, before the presiding officer, who shall attest it in the form hereinafter mentioned, and no fee, stamp, or other payment shall be charged in respect of such declaration, and the said declaration shall be given to the presiding officer at the time of voting.

Voting by blind persons and illiterates.

10. If a person, representing himself to be a particular elector named on the voters' list, applies for a ballot paper after another person has voted as such elector, the applicant shall, upon duly answering the questions and making the affirmation permitted by law to be asked of and to be administered to voters at the time of polling, be entitled to mark a ballot paper in the same manner as any other voter, but the ballot paper (in this Law called a tendered ballot paper) shall be of a colour differing from the other ballot papers, and, instead of being put into the ballot box, shall be given to the presiding officer and endorsed by him with the name of the voter and his number on the list of voters, and set aside in a separate packet, and shall not be counted by the returning officer. And the name of the voter and his

"Tendered ballot paper."

(A) See note (c) to sec. 1, ante.

(B) It is interesting to note that the Imperial Act inserts a similar saving

clause for persons of the Jewish religion who may, on conscientious grounds, decline to write on a Saturday.

Law 29, 1887. number on the voters' list shall be entered on a list, in this Law called
Schedules. "the tendered votes' list."

"Spoilt ballot paper."

11. A voter who has inadvertently dealt with his ballot paper in such a manner that it cannot be conveniently used as a ballot paper, may, on delivering to the presiding officer the ballot paper so inadvertently dealt with, and proving the fact of the inadvertence to the satisfaction of the presiding officer, obtain another ballot paper in the place of the ballot paper so delivered up (in this Law called a spoilt ballot paper), and the spoilt ballot paper shall be immediately cancelled.

Delivery of separate packets by presiding officer to returning officer.

12. The presiding officer of each station, as soon as practicable after the close of the poll, shall, in the presence of the agents of the candidates, make up into separate packets, sealed with his own seal and the seals of such agents of the candidates as desire to affix their seals—

- (1) Each ballot box in use at his station, unopened, but with the key attached; and
- (2) The unused and spoilt ballot papers placed together; and
- (3) The tendered ballot papers; and
- (4) The marked copies of the register of voters, and the counterfoils of the ballot papers; and
- (5) The tendered votes' list, and the list of votes marked by the presiding officer, and a statement of the number of voters whose votes are so marked by the presiding officer under the heads "physical incapacity," and "unable to read," and the declarations of inability to read,

and shall deliver such packets to the returning officer or Resident Magistrate of the Division.

Statement.

13. The packets shall be accompanied by a statement made by such presiding officer, showing the number of ballot papers entrusted to him, and accounting for them under the heads of ballot papers in the ballot box, unused, spoilt, and tendered ballot papers, which statement is in this Law referred to as the ballot paper account.

Agents.

14. The candidates may respectively appoint agents to attend the counting of the votes.

Counting votes.

15. The returning officer shall make arrangements for counting the votes in presence of the agents of the candidates as soon as practicable after the close of the poll, and shall give to the agents of the candidates appointed to attend at the counting of the votes notice in writing of the time and place at which he will begin to count the same.

Who may be present at counting.

16. The returning officer, his assistants and clerks, and the agents of the candidates, and no other person, except with the sanction of the returning officer, may be present at the counting of the votes.

Mode of counting.

17. Before the returning officer proceeds to count the votes, he shall, in the presence of the agents of the candidates, open each ballot box, and taking out the papers therein, shall count and record the number thereof, and then mix together the whole of the ballot papers contained in the ballot boxes. The returning officer, while counting and recording the number of ballot papers and counting the votes, shall keep the ballot papers with their faces upwards, and take all proper precautions for preventing any person from seeing the numbers printed on the back of such papers.

Continuous counting.

18. The returning officer shall, so far as practicable, proceed continuously with counting the votes, allowing only time for refreshment, and excluding (except so far as he and the agents otherwise agree) the hours between seven o'clock at night and nine o'clock on the succeeding morning. During the excluded time the returning officer shall place the ballot papers and other documents

relating to the election under his own seal and the seals of such of the agents of the candidates as desire to affix their seals, and shall otherwise take proper precautions for the security of such papers and documents

Law 29, 1887.
Schedules.

19. The returning officer shall endorse (A) "rejected" on any ballot paper which he may reject as invalid, and shall add to the endorsement, "rejection, objected to," if an objection be in fact made by any agent to his decision. The returning officer shall report to the Colonial Secretary the number of ballot papers rejected and not counted by him under the several heads—

"Rejected ballot papers."

- (1) Want of official mark;
- (2) Voting for more candidates than entitled to;
- (3) Writing or mark by which voter could be identified;
- (4) Unmarked or void for uncertainty;

and shall, on request, allow any agents of the candidates, before such report is sent, to copy it.

20. Upon the completion of the counting, the returning officer shall seal up in separate packets the counted and rejected ballot papers. He shall not open the sealed packet of tendered ballot papers or marked copy of the register of voters and counterfoils, but shall proceed in the presence of the agents of the candidates to verify the ballot paper account given by each presiding officer, by comparing it with the number of ballot papers recorded by him as aforesaid and the unused and spoilt ballot papers in his possession and the tendered votes' list, and shall re-seal each sealed packet after examination. The returning officer shall report to the Colonial Secretary the result of such verification, and shall, on request, allow any agents of the candidates, before such report is sent, to copy it.

Verification of ballot paper account.

21. Lastly, the returning officer shall forward to the Colonial Secretary all the packets of ballot papers in his possession, together with the said reports, the ballot paper accounts, tendered votes' lists, lists of votes marked by the presiding officer, statements relating thereto, declarations of inability to read, and packets of counterfoils and marked copies of voters' lists, sent by each presiding officer, endorsing on each packet a description of its contents and the date of the election to which they relate, and the name of the electoral district for which such election was held.

Forwarding packets to Colonial Secretary.

22. The Colonial Secretary shall retain for a year all documents relating to an election forwarded to him in pursuance of this Law by a returning officer, and then, unless otherwise directed by an order of the Supreme Court or of one of the judges thereof, shall cause them to be destroyed.

Documents to be kept for a year.

23. No person shall be allowed to inspect any rejected ballot papers in the custody of the Colonial Secretary, except under an order of the Supreme Court or one of the judges thereof, granted by such court or judge on being satisfied by evidence on oath that the inspection or production of such ballot papers is required for the purpose of instituting or maintaining a prosecution for an offence in relation to ballot papers, or for the purpose of a petition questioning an election or return; and any such order for the inspection or production of ballot papers may be made subject to such conditions as to persons, time, place, and mode of inspection or production as the Court making the same may think expedient, and shall be obeyed by the Colonial Secretary. Any power given to a Court by this rule may be exercised by any judge of such Court at Chambers.

Inspection of rejected ballot papers, &c.

(A) The endorsement must be made on its face (per Wragg, J., in *The Weenen County Election Petition*, 13 N.L.R. 295).

Law 29, 1887.

Schedules.
Inspection of
ballot papers.

24. No person shall, except by order of the tribunal established under the Election Petitions Law, 1883 (A), having cognisance of petitions complaining of undue returns or undue elections, open the sealed packet of counterfoils after the same has been once sealed up, or be allowed to inspect any counted ballot papers in the custody of the Colonial Secretary; such order may be made subject to such conditions as to persons, times, place, and mode of opening or inspection as the tribunal making the order may think expedient: Provided that, on making and carrying into effect any such order, care shall be taken that the mode in which any particular elector has voted shall not be discovered until he has been proved to have voted, and his vote has been declared by a competent court to be invalid.

Copies or
extracts of
documents.

25. All documents forwarded by a returning officer in pursuance of this Law to the Colonial Secretary, other than ballot papers and counterfoils, shall be open to public inspection at such time and under such regulations as may be prescribed by the Colonial Secretary, with the consent of the Speaker; and the Colonial Secretary shall supply copies of or extracts from the said documents to any persons demanding the same, on payment of such fees and subject to such regulations as may be sanctioned by the Governor in Council.

Evidence of
matters relating
to documents,
&c.

26. Where an order is made for the production by the Colonial Secretary of any document in his possession relating to any specified election, the production by such Colonial Secretary or his agent of the document ordered, in such manner as may be directed by such order, or by a rule of the Court having power to make such order, shall be conclusive evidence that such document relates to the specified election; and any endorsement appearing on any packet of ballot papers produced by such Colonial Secretary, or his agent, shall be evidence of such papers being what they are stated to be by the endorsement. The production, from proper custody, of a ballot paper purporting to have been used at any election, and of a counterfoil marked with the same printed number, and having a number marked thereon in writing, shall be "prima facie" evidence that the person who voted by such ballot paper was the person who, at the time of such election, had affixed to his name in the voters' list at such election the same number as the number written on such counterfoil.

The return.

27. The return of a member or members elected to serve in the Legislative Council for any electoral district shall be made by a certificate of the names of such member or members under the hand of the returning officer, endorsed on the writ of election for such electoral district, and such certificate shall have effect and be dealt with in like manner as the return under the existing Royal Charter, and the returning officer may, if he thinks fit, deliver the writ with such certificate endorsed to the Postmaster of the principal Post Office of the place of election, or his deputy, and in that case he shall take a receipt from the Postmaster or his deputy, for the same; and such Postmaster, or his deputy, shall then forward the same by the first post, free of charge, under cover, to the Colonial Secretary, with the words "Election Writ and Return" endorsed thereon.

Notice of
result.

28. The returning officer shall, as soon as possible, give public notice of the names of the candidates elected, and in the case of a contested election, of the total number of votes given for each candidate, whether elected or not (B).

Returning
officer may
preside at
polling station

29. The returning officer may, if he think fit, preside at any polling station, and the provisions of this Law relating to a presiding

(A) Repealed and re-enacted with amendments by Act 19, 1895, post. (B) See *Johnstone v. Rowse*, 14 N.L.R. 27.

- officer shall apply to such returning officer with the necessary modifications as to things to be done by the returning officer to the presiding officer, or the presiding officer to the returning officer. Law 29, 1887.
Schedules.
30. In the case of a contested election for any electoral district, the returning officer may, in addition to any clerks, appoint competent persons to assist him in counting the votes. Counters.
31. No person shall be appointed by a returning officer for the purposes of an election who has been employed by any other person in or about the election. Employees.
32. The presiding officer may do, by the clerks appointed to assist him, any act which he is required or authorised to do by this Law at a polling station, except ordering the arrest, exclusion, or ejection from the polling station of any person. Presiding officer may delegate certain duties.
33. A candidate may himself undertake the duties which any agent of his, if appointed, might have undertaken, or may assist his agent in the performance of such duties, and may be present at any place at which his agent may, in pursuance of this Law, attend. Rights of candidate.
34. The name and address of every agent of a candidate appointed to attend the counting of the votes shall be transmitted to the returning officer one clear day at the least before the opening of the poll; and the returning officer may refuse to admit to the place where the votes are counted any agent whose name and address has not been so transmitted, notwithstanding that his appointment may be otherwise valid, and any notice required to be given to an agent by the returning officer may be delivered at or sent by post to such address. Name and address of agent for counting.
35. If any person appointed an agent by a candidate for the purposes of attending at the polling station, or at the counting of the votes, die or becomes incapable of acting during the time of the election, the candidate may appoint another agent in his place, and shall forthwith give to the returning officer notice in writing of the name and address of the agent so appointed. Substituted agent.
36. Every returning officer, and every officer, clerk, or agent authorised to attend at the polling station, or at the counting of the votes, shall, before the opening of the poll, make a statutory declaration of secrecy in the presence, if he is the returning officer, of a justice of the peace, and if he is any other officer, or an agent, of a justice of the peace or of the returning officer; but no such returning officer, officer, clerk, or agent as aforesaid shall, save as aforesaid, be required, as such, to make any declaration or take any oath on the occasion of any election. Declaration of secrecy by officers.
37. Where in this Law any expressions are used requiring or authorising or inferring that any act or thing is to be done in the presence of the agents of the candidates, such expressions shall be deemed to refer to the presence of such agents of the candidates as may be authorised to attend, and as have in fact attended, at the time and place where such act or thing is being done, and the non-attendance of any agents or agent at such time and place shall not, if such act or thing be otherwise duly done, in anywise invalidate the act or thing done. Construction.

SECOND SCHEDULE.

NOTE.—The forms contained in this Schedule, or forms as nearly resembling the same as circumstances will admit, shall be used in all cases to which they refer and are applicable, and when so used shall be sufficient in law.

Law 29, 1887.
Schedules.

Form of Ballot Paper (A).

Form of Front of Ballot Paper.

Counterfoil.

No.

1	BROWN (John Brown, of 52, George street, Bristol, merchant).
2	JONES (William David Jones, of High Elms, Wilts, Esquire).
3	MERTON (Hon. George Travis, commonly called Viscount Merton, of Swanworth, Berks).
4	SMITH (Henry Sidney Smith, of 72, High street, Bath, Attorney).

NOTE.—The counterfoil is to have a number to correspond with that on the back of the ballot paper.

Form of Back of Ballot Paper.

No.

Election forElectoral District,
18

NOTE.—The number on the ballot paper is to correspond with that in the counterfoil.

Directions as to Printing Ballot Paper.

Nothing is to be printed on the ballot paper except in accordance with this Schedule.

The surname of each candidate, and if there are two or more candidates of the same surname, also the other names of such candidates, shall be printed in large characters, as shown in the form, and the names, addresses, and descriptions, and the number on the back of the paper, shall be printed in small characters.

Form of directions for the guidance of the voter in voting, which shall be printed in conspicuous characters, and placarded outside every polling station and in every compartment of every polling station.

The voter may vote for candidate. The voter will go into one of the compartments, and with the pencil provided in

(A) A paper marked with the name of the voter, or with the name of the candidate voted for written opposite to the name of the latter and not marked with a cross is bad; but a paper marked with two crosses, or with three crosses, or a single stroke, or a straight line, or a star, or a blurred cross, or a line drawn through the name of the candidate not voted for (in addition to a cross) or a cross on the left hand side, is, in the

absence of evidence of connivance or pre-arrangement, good (*Woodward v. Sarsons*, L.R., 10 C.P. 733; 44 L.J., C.P. 293; dissenting on some points from the Wigton case of *Haswell v. Stewart*, 2 O.M. & H. 215, 227) in which latter case (*Benholme, L. J.*, dissenting) amongst other marks a straight line and a triple cross were disallowed, but a cross made in ink was allowed.

the compartment place a cross on the right-hand side, opposite the name of each candidate for whom he votes, thus X (A). Law 29, 1887.
Schedules.

The voter will then fold up the ballot paper so as to show the official mark on the back, and leaving the compartment will, without showing the front of the paper to any person, show the official mark on the back to the presiding officer, and then, in the presence of the presiding officer, put the paper into the ballot box, and forthwith quit the polling station.

If the voter inadvertently spoils a ballot paper, he can return it to the officer, who will, if satisfied of such inadvertence, give him another paper.

If the voter votes for more than one candidate, or places any mark on the paper by which he may be afterwards identified, his ballot paper will be void, and will not be counted.

If the voter takes a ballot paper out of the polling station, or deposits in the ballot box any other paper than the one given him by the officer, he will be guilty of an offence, and be subject to imprisonment for any term not exceeding six months, with or without hard labour.

NOTE.—These directions shall be illustrated by examples of the ballot paper.

Form of Statutory Declaration of Secrecy (B).

I solemnly promise and declare, that I will not at this election do anything forbidden by Section Five of "The Ballot Law, 1886," which has been read to me.

NOTE.—The section must be read to the declarant by the person taking the declaration.

Form of Declaration of Inability to Read.

I, A. B., of _____, being numbered on the List of Voters for the Electoral District of _____, do hereby declare that I am unable to read.

A. B. his mark.

day of

I, the undersigned, being the presiding officer for the polling station for the Electoral District of _____ do hereby certify that the above declaration, having been first read to the above-named A. B., was signed by him in my presence with his mark.

(Signed) C. D.,
Presiding Officer for _____ Polling Station
for the Electoral District of _____
day of _____

Law No. 5, 1889 (c).

"To amend Law No. 1 of 1883, being the "Constitution Amendment Law, 1882."

[25th June, 1889.]

WHEREAS it is desirable to make provision for separate representation by Elective Members in the Legislative Council of the

(A) See the last note. s. 23, tit. "MUNICIPAL CORPORATIONS."
(B) This form does not apply to Municipal Elections, see Law 13, 1893, (c) See Law 14, 1893, post, reconstituting the Legislature.

Law 5, 1889. Counties of Alexandra and Alfred, and in consequence to increase the number of Elective Members:

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

Former Laws and Charters.

1. Save so far as in conflict with this Law, all former Laws and Charters now existing shall be deemed to remain in force.

District of Alexandra and Alfred ceases to return a member.

2. From and after the end of this present Legislative Council the Electoral District of Alexandra and Alfred shall cease to return a member to serve in the Legislative Council of Natal.

Subdivision of Alexandra and Alfred District.

3. From and after the end of the present Legislative Council there shall be formed out of the Electoral District of the Counties of Alexandra and Alfred, in the Colony of Natal, two Electoral Districts, the one to be called the Electoral District of Alexandra and the other the Electoral District of Alfred.

Boundaries of new districts.

4. The boundaries of the said Electoral Districts respectively shall be the boundaries fixed and defined for the Counties of Alexandra and Alfred respectively by the Governor's Proclamation of the 5th day of October, 1874, or such other boundaries as may be from time to time defined by the Governor by Proclamation in the "GOVERNMENT GAZETTE."

Alexandra County to return one member.

5. From and after the end of the present Legislative Council the Electoral District of Alexandra shall return one member to serve in the Legislative Council of Natal.

Alfred County to return one member.

6. From and after the end of the present Legislative Council the Electoral District of Alfred shall return one member to serve in the Legislative Council of Natal.

Voters List in force till Sept. 1st, 1889.

7. For the purposes of any election of a member for the Electoral District of Alfred before the first day of September, 1889, the Voters' List now in force in the County of Alfred shall be deemed the list of persons qualified to vote at any such election for the Electoral District of Alfred.

Voters List in force till Sept. 1st, 1889.

8. For the purposes of any election of a member for the Electoral District of Alexandra before the 1st day of September, 1889, the Voters' List now in force in the County of Alexandra shall be deemed the list of persons qualified to vote at any such election for the Electoral District of Alexandra.

Framing of writs, appointments of officers, &c.

9. All writs to be issued for the election of members of the Legislative Council under this Law, and all appointments of officers, and all proceedings relative to such elections, and to the registration of voters, shall be framed, made, and expressed in such manner as may be necessary for carrying into effect the provisions of this Law. The Charters and Laws now in force relating to all election purposes shall remain in full force and effect, and shall apply, as nearly as circumstances admit, to any constituency created or authorised under this Law to return a member to serve in the Legislative Council, to the same extent and in like manner as if such Electoral District had before returned such member to the Legislative Council.

Former Charters and Laws to apply to new Districts.

Commencement

10. This Law shall not come into operation unless and until the Officer administering the Government notifies by Proclamation that it is Her Majesty's pleasure not to disallow the same, and thereafter it shall come into operation upon such day as the Officer administering the Government shall notify by the same or any other Proclamation (A).

Suspending clause.

(A) Took effect June 24, 1890. Vide Pn. in G.G. of that date.

Law No. 18, 1892.

“To Amend Law 29, 1887, ‘The Ballot Law, 1886.’”

[9th December 1892.]

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

1. Section 16 of Law 29, 1887, “The Ballot Law, 1886,” shall be and the same is hereby repealed, and in lieu thereof the following Section is substituted:—

Sec. 16 of Law 29, 1887, repealed.

The requisition mentioned in the Royal Charter of Natal, Section Thirteen, shall not be published in terms of Section Fifteen of the said Charter, until the sum of Twenty-five Pounds Sterling shall have been paid to the Resident Magistrate, by or on behalf of the candidate mentioned in the requisition. Such payment shall be made at the time when the requisition and the notification of the candidate's acceptance thereof are received by such Resident Magistrate, or at least fourteen days before the election is appointed to take place, and no person invited to become a candidate, by or for whom or on whose behalf such payment shall not have been made, shall be or be deemed to be a candidate at such election. The said sum of Twenty-five Pounds shall be dealt with in the manner provided in “The Ballot Law, 1886” (A).

Deposit of £25 by candidate.

2. The following Sub-section shall be added to Section 4 of the Ballot Law, 1886, and shall, for all purposes, be deemed to be incorporated therewith, namely:—

Addition to sec. 4 of Law 29, 1887.

(6) Shall apply for a second ballot paper, except as provided for in Rule 11 of the First Schedule of this Law.

3. This Law and “The Ballot Law, 1886,” shall be read and construed together as one Law.

This Law to be read with Law 29, 1887.

4. This Law shall not come into operation unless and until the Officer Administering the Government notifies by Proclamation that it is Her Majesty's pleasure not to disallow the same, and thereafter it shall come into operation upon such day as the Officer Administering the Government shall notify by the same or any other Proclamation.

Commencement

Law No. 14, 1893.

“To provide for the establishment of Responsible Government in Natal.”

[3rd July, 1893.]

WHEREAS it is expedient to provide for the establishment of Responsible Government in Natal:

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

1. This Act may be cited as the Constitution Act of 1893.

Short title, Commencement

2. This Act shall commence and take effect at such date as may be fixed by a Proclamation signed by the Governor of Natal declaring that the Royal assent has been given thereto (B).

(A) Money deposited under this sec. cannot be interdicted, while in the Magistrate's hands, at the suit of a creditor; see *In re David Baikie*, 14

N.L.R. 267, decided on the repealed sec. of The Ballot Law, 1886.

(B) Took effect July 20, 1893. Vide Pn. in G.G. dated July 4, 1893.

Law 14, 1893.

Legislative Council and Legislative Assembly.

Existing Charters, Laws, &c., to continue in force save as repugnant to this Act.

Enactment of Laws.

Governor may assent, or refuse assent to Bills, or return or reserve them.

Disallowance of Act by Her Majesty in Council.

Ministerial offices.

Ministers to be or become Members of the Legislature.

Rights of Ministers to speak and vote.

Meaning of "Governor in Council."

3. There shall be in place of the Legislative Council now subsisting, a Legislative Council and a Legislative Assembly as hereby constituted.

The constitution, appointment, and powers of the Legislative Council now subsisting shall continue in force until the first writs have been issued for the election of Members to serve in the Legislative Assembly, and no longer.

4. All Charters, Ordinances, and Laws which at the commencement of this Act are in force within the Colony, shall, until duly repealed or varied, continue to be of the same force, authority and effect as if this Act had not been passed, except in so far as the same are repugnant to this Act (in which case they are to that extent hereby amended and repealed).

5. It shall be lawful for Her Majesty and Her Successors, by and with the advice and consent of the Legislative Council and Legislative Assembly, as hereby constituted, to make all Laws required for the peace, order, and good government of the Colony of Natal (A).

6. Whenever any Bill has been passed by the Legislative Council and Legislative Assembly, it shall be presented to the Governor, who may either return the same by Message for the re-consideration of the Legislative Council and Legislative Assembly with such amendment as he may think fitting, or, subject to Royal Instructions, may assent to the same in Her Majesty's name, or may declare that he refuses his assent to the same, or that he reserves the same for the signification of the Royal pleasure thereon.

7. If at any time within two years after the Governor has assented to any Bill in Her Majesty's name, it shall be notified to him through one of Her Majesty's Principal Secretaries of State that Her Majesty in Council has been pleased to disallow the Act so assented to, the Governor shall forthwith signify such disallowance by Message to the Legislative Council and Legislative Assembly, or by Proclamation in the "GOVERNMENT GAZETTE," and from and after the date of such Message or Proclamation, the said Act shall become null and void.

8. Within three months after the commencement of this Act, and thereafter from time to time as may be necessary, the Governor may designate such offices as he thinks fit, not being more than six in number, to be political offices for the purposes of this Act (B). Appointments to such offices shall be made by the Governor, in the name of Her Majesty, and such offices shall be held at Her Majesty's pleasure, and be liable to be vacated on political grounds.

The holders of such offices are in this Act styled Ministers, and a Minister shall not vacate his seat in the Legislative Council or Legislative Assembly by reason of his appointment to or retention of any such office.

9. Every Minister shall be, or shall within four months from the date of his appointment become, a Member of the Legislative Council or of the Legislative Assembly, but not more than two Ministers may be Members of the Legislative Council.

10. Each Minister being a Member of either House shall have a right to sit and speak in both Houses, but shall vote only in the House of which he is a Member.

11. The words "Governor in Council" in this Act, or any other Act or Law appearing, shall mean the Governor acting with the advice of the Executive Council.

(A) See *Tomlinson v. Corporation of Pietermaritzburg*, 16 N.L.R. 152, with reference to the power of the Supreme Court to interfere with acts of the Legislature.

(B) Act No. 5, 1897, tit. "EDUCATION,"

runs as follows:—"One of the Ministers appointed under Section 8 of the Constitution Act of 1893 shall fill the office of Minister of Education in addition to his office designated by the Governor under that section."

12. There shall be a Session of the Legislative Council and Legislative Assembly once at least in every year, so that a period of twelve months shall not intervene between the last sitting of the said Legislative Council and Legislative Assembly in one Session and the first sitting of the said Council and Assembly in the next Session; and the first Session shall be held within three months of the date when this Act shall commence to take effect.

Law 14, 1893.
Sessions of Parliament.

13. It shall be lawful for the Governor to fix the place and time for holding the first and every other Session of the Legislative Council and Legislative Assembly, and from time to time to vary the same as he may judge advisable; and also to prorogue the Legislative Council and Legislative Assembly from time to time, and to dissolve the Legislative Assembly by Proclamation whenever he shall think fit.

Place and time of Session
Prorogation;
Dissolution.

14. The Legislative Council shall consist of eleven (A) Members, who shall be summoned in the case of the first Council by the Governor, and thereafter from time to time by the Governor in Council in the name of Her Majesty by instruments under the Public Seal of the Colony.

Constitution of Legislative Council.

15. No person shall be so summoned unless he shall be of the age of 30 years or upwards, nor unless he shall have resided in the Colony for ten years, nor unless he shall be the registered proprietor of immovable property within the Colony of the value of Five Hundred Pounds in nett value after deduction of the amount of all registered mortgages.

Qualification for membership.

16. Each person so summoned as a Member of the Legislative Council shall hold his seat therein for ten years from the date of his summons: Provided, however, that five of the Members of the Legislative Council first summoned shall vacate their seats at the end of five years, and the particular Members who are so to vacate their seats at the end of five years shall be decided by lot within the first week of the first Session of the Legislative Council, in such way as the said Council may determine.

Tenure of seat.

17. The vacating of his seat by a Member of the Legislative Council by lapse of time shall not disqualify him from being again summoned.

Vacation of seat by lapse of time not a disqualification.

18. Any Member of the Legislative Council may resign his seat therein, by writing under his hand, addressed to the Governor, and upon the receipt of such resignation by the Governor, the seat of such Member shall become vacant.

Resignation.

19. Members of the Legislative Council shall be summoned from the following Districts, that is to say:—Five from within the Counties of Durban, Victoria, Alexandra, and Alfred; three from within the Counties of Pietermaritzburg and Umvoti, and three from within the Counties of Weenen and Klip River: Provided, that not more than two Members shall be chosen from within any one County.

Distribution of seats.

20. The Governor may, from time to time, by an instrument under the Public Seal of the Colony, appoint one Member of the Legislative Council to be President thereof, and may remove him and appoint another in his stead, and the President may at any time take part in any debate or discussion in the said Council.

President.

21. The Legislative Council shall not be competent to proceed to the despatch of business unless five Members shall be present.

Quorum.

(A) Altered to twelve by Act 10, 1898, post.

Law 14, 1893.
Constitution of
Legislative
Assembly.

22. The Legislative Assembly shall consist of thirty-seven (A) Members, who shall be chosen by the Electors of the following Electoral Districts:—

Pietermaritzburg City	4
Pietermaritzburg County—	
Umgeni Division	2
Lion's River Division	2
Ixopo Division	2
Durban Borough	4
Durban County	3
Victoria County	4
Umvoti County	3
Weenen County	3
Klip River County—	
Klip River Division	3
Newcastle Division	3
Alexandra County	2
Alfred County	2

Election of
Members of
Legislative
Assembly.

23. For the purpose of constituting the Legislative Assembly, the Governor, before the time appointed for the first meeting of the Legislative Council and Legislative Assembly, and thereafter from time to time as occasion shall require, and without undue delay, may, in Her Majesty's name, issue writs under the Public Seal of the Colony for the general election of Members to serve in the Legislative Assembly. Persons qualified to become Members of the Legislative Council now subsisting shall be qualified to become Members of the Legislative Assembly (B).

Qualification.

Application of
existing Laws,
&c., for pur-
poses of elec-
tions.

24. All existing Laws relating to the mode of election, and all voters' lists and all other matters concerning elections, shall be in force, and shall apply to the election of Members to serve in the Legislative Assembly in the same manner as they are now in force in respect of elections to the Legislative Council now subsisting.

Duration of
Legislative
Assembly.

25. Every Legislative Assembly shall continue for four years from the day of the return of the writs for the election of the same, and no longer: Subject, nevertheless, to be sooner prorogued or dissolved by the Governor.

Governor may
transmit to
either House
draft of any
Bill.

26. The Governor may transmit by Message to the Legislative Council or the Legislative Assembly the draft of any Bill which it may appear to him desirable to introduce, and all such drafts shall be taken into consideration by the said Council or Assembly, as the case may be, in such convenient manner as shall be provided in that behalf by the Rules of Order.

Oath or affirma-
tion of Member.

27. No Member of the Legislative Council or of the Legislative Assembly shall vote or sit therein until he shall have taken and subscribed the following Oath, before the Governor, or some person authorised by him to administer such Oath:—

“I () do sincerely promise and swear, that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, Her Heirs and Successors, according to Law. So help me God!”

But every person authorised by Law to make a solemn Affirmation or Declaration, instead of taking an Oath, may make such Affirmation or Declaration in lieu of the said Oath.

(A) For “thirty-seven” read “thirty-nine”; see Act 10, 1898, post.

(B) See Clause 13 of the Letters Patent of 15th July, 1856, ante, as to the nature of the required qualification.

28. The Legislative Assembly shall, on their first meeting, before proceeding to the despatch of any other business, elect one of their Members to be Speaker of the said Assembly, subject to confirmation by the Governor, and in case of vacancy in the office, another Speaker shall be elected in manner and subject to such confirmation as aforesaid. **Law 14, 1893.**
Election of Speaker of Legislative Assembly.
29. The Speaker, or in his absence some Member elected by the Legislative Assembly, shall preside at the meetings thereof. **Who to preside.**
30. The Legislative Assembly shall not be competent to proceed to the despatch of business unless twelve Members, inclusive of the Speaker, be present. **Quorum of Legislative Assembly.**
31. All questions in the Legislative Council and in the Legislative Assembly shall be determined by a majority of the votes of Members present, other than the President or Speaker, as the case may be, who shall, however, have and exercise a casting vote in case of an equality of votes. **All questions to be determined by a majority of votes.**
32. If any Member of the Legislative Council or Legislative Assembly shall fail for a whole ordinary annual Session to give his attendance in the House of which he is a Member, or shall cease to hold his qualification, or shall take any oath, or make any declaration or acknowledgment of allegiance, obedience, or adherence to any foreign State or Power, or shall do, concur in, or adopt any act whereby he may become the subject or citizen of any such State or Power, 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 sentenced to imprisonment for any infamous crime, or shall become of unsound mind, or shall accept any office of profit under the Crown other than a political office or that of an officer of Her Majesty's sea or land forces on full, retired, or half-pay, his seat shall become vacant. This clause shall not apply to persons in receipt of pensions from the Colonial Government, or entitled to pensions under this Act. **Member's seat in Legislature, how vacated.**
33. If any Member of the Legislative Council or the Legislative Assembly shall, for the period of one month, remain a party to any contract with the Government, his seat in the said Council or Assembly, as the case may be, shall thereupon become vacant: Provided, that this clause shall not apply to any purchaser of land at public auction from the Government, or to any lessee of Government land. **Saving of pensioners.**
34. Whenever the seat of any Member of the Legislative Council or the Legislative Assembly has become vacant, a summons or writ, as the case may be, shall forthwith issue to the intent that the vacancy may be filled without delay. **Member remaining party to Government contract for one month vacates seat.**
35. Any Member of the Legislative Assembly may resign his seat therein, by writing under his hand, addressed to the Speaker, and upon the receipt of such resignation by the Speaker, the seat of such Member shall become vacant. **Vacancies to be filled without delay.**
36. Whenever a vacancy occurs in the Legislative Assembly from any cause, upon a resolution by the said Assembly declaring such vacancy and the cause thereof, the Speaker shall cause a writ to be issued for filling such vacancy. **Resignation of seat in Legislative Assembly.**
37. The Speaker may, in the case of a vacancy caused by death or resignation, issue such writ without such preceding resolution when the Legislative Assembly is not in Session. **Writs for filling vacancies.**
38. If any person by this Act disabled or declared to be incapable to sit or vote in the Legislative Council or Legislative Assembly shall nevertheless be summoned to the Legislative Council, or elected and returned as a Member to serve in the said Assembly, such summons or election and return may be declared by the said Council or Assembly, as the case may require, to be void, and thereupon the same shall **Writs during recess.**
- Avoidance of election for disqualification.**

Law 14, 1893. become and be void to all intents and purposes whatsoever; and if any person under any of the disqualifications mentioned in this Act, shall, whilst so disqualified, presume to sit or vote as a Member of the said Council or Assembly, such person shall forfeit the sum of One Hundred Pounds, to be recovered by any person who shall sue for the same in the Supreme Court.

Standing Rules and Orders.

39. The Legislative Council and Legislative Assembly in their first Session, and from time to time afterwards as there shall be occasion, shall each adopt Standing Rules and Orders, joint as well as otherwise, for the regulation and orderly conduct of their proceedings and the despatch of business, and for the manner in which the said Council and Assembly shall be presided over in the absence of the President or Speaker, and for the order in which the said Council and Assembly shall confer, correspond, and communicate with each other, and for the passing, intituling, and numbering of Bills, and for the presentation of the same to the Governor for Her Majesty's assent; and all such Rules and Orders shall, by the said Council and Assembly respectively, be laid before the Governor, and being by him approved shall become binding and of force: Provided that the Standing Rules and Orders of the Legislative Council as now subsisting, shall, until altered, added to, or amended, be the Standing Rules and Orders of the Legislative Council and of the Legislative Assembly.

Salaries of officers of Legislature.

40. The salary of the President of the Legislative Council shall be at least equal to the salary of the Speaker of the Legislative Assembly; and the salaries and allowances of the various officers of the Legislative Council shall be the same as those of the corresponding officers of the Legislative Assembly; and the Chief Clerk for the time being of the Legislative Council and of the Legislative Assembly shall respectively be removable from office only in accordance with a vote of the House of which he is an officer.

Amendment of Law 1, 1870.

41. The Law No. 1 of 1870 shall henceforth be construed as if the word "Assembly" appeared therein whenever the word "Council" is used, except in the enacting Clause.

Construction of words "Legislative Council," occurring in existing Laws.
Privileges of Parliament.

Where any existing Law prescribes that documents are to be laid before the Legislative Council, such documents shall in future be laid before the Legislative Council and Legislative Assembly. And where in any existing Law the words "Legislative Council" occur, they shall, unless the context otherwise indicates, be read as if they were "Legislative Council and Legislative Assembly."

42. It shall be lawful for the Legislature of the Colony by any Law to define the privileges, immunities, and powers to be held, enjoyed, and exercised by the Legislative Council and Legislative Assembly, and by the Members thereof respectively (A): Provided that no such privileges, immunities, or powers shall exceed those for the time being held, enjoyed, and exercised by the Commons House of Parliament or the Members thereof.

Commissions of Judges.

43. The commissions of the present Judges of the Supreme Court, and Native High Court, and of all future Judges thereof shall be, continue, and remain in full force during their good behaviour.

Removal of Judges.

44. It shall be lawful, nevertheless, for Her Majesty to remove any such Judge, upon the Address of both Houses of the Legislature of the Colony.

Salaries of Judges.

45. Such salaries as are settled upon the Judges for the time being by Law, and also such salary as shall be voted to any Judge of the Supreme Court, or the Native High Court, shall in all time coming be paid and payable to every such Judge for the time being, so long as his patent or commission continues in force.

(A) See Act 27, 1895, post.

46. All taxes, imposts, rates, and duties, and all territorial, casual, and other revenues of the Crown (including royalties) from whatever source arising within the Colony, over which the Legislature has power of appropriation, shall form one Consolidated Revenue Fund to be appropriated to the Public Service of the Colony in the manner and subject to the charges hereinafter mentioned.

Law 14, 1893.
Consolidated
Revenue Fund.

47. The Consolidated Revenue Fund shall be permanently charged with all the costs, charges, and expenses incident to the collection, management, and receipt thereof; such costs, charges, and expenses being subject nevertheless to be reviewed and audited in such manner as may from time to time be directed by any Act of the Legislature.

Costs of collection and management.

48. All Bills for appropriating any part of the Consolidated Revenue Fund or for imposing, altering, or repealing any rate, tax, duty, or impost, shall originate in the Legislative Assembly.

Certain Bills must originate in Legislative Assembly.

49. The Legislative Council may either accept or reject any money Bill passed by the Legislative Assembly, but may not alter it.

Powers of Legislative Council thereon

50. It shall not be lawful for the Legislative Assembly to adopt or pass any vote, resolution, or Bill for the appropriation of any part of the Consolidated Revenue Fund, or of any rate, tax, duty, or impost to any purpose which has not been first recommended to the said Assembly by Message of the Governor during the Session in which such vote, resolution, or Bill is proposed.

Appropriation to be for purposes recommended by Governor.

51. No part of the Consolidated Revenue Fund shall be issued except in pursuance of warrants under the hand of the Governor directed to the Treasurer.

Warrants for expenditure.

52. There shall be payable to Her Majesty, in every year, out of the Consolidated Revenue Fund, sums not exceeding in the whole £21,700 Sterling (Twenty-one Thousand Seven Hundred Pounds), for defraying the expenses of the services and purposes set forth in Schedules A and B to this Act, and the said several sums shall be issued by the Treasurer in discharge of such warrants as shall from time to time be directed to him under the hand of the Governor.

£21,700 per annum payable to Her Majesty.

53. The appointment to all public offices under the Government of the Colony hereafter to become vacant or to be created, save those liable to be vacated on political grounds, shall be vested in the Governor in Council.

Appointments to public offices.

54. The power to suspend or remove any Civil Servant from his office shall be vested in the Governor in Council, without prejudice, however, to any right of appeal to the Secretary of State which may be competent to any Civil Servant who shall be in the Civil Service of this Colony at the date of the promulgation of this Act (A).

Suspension and removal.

55. In the event of the retirement from office on political grounds of any present official Member of the Legislative Council, such official Member shall, subject to the proviso hereafter contained, be entitled to the pension or retiring allowance set opposite his name in Schedule B hereto annexed: Provided, that if any such official Member shall accept any other appointment under the Crown, in this Colony or elsewhere, his pension or retiring allowance shall, during the tenure of such appointment, merge or be reduced "pro tanto," according as the salary or emolument of any such appointment shall be equal to or less than the pension or retiring allowance of such official Member.

Pensions on retirement of present official members of Legislative Council.

(A) The right of appeal given by this sec. refers to cases of abrupt dismissal, and not to dismissal after due notice

(*Methven v. Colonial Government*, 17 N.L.R. 31).

Law 14, 1893.

SCHEDULE A.

Schedules.	£
Governor	4,000
Ministerial Salaries	4,200
Under Secretary for Native Affairs	600
For the promotion of the welfare and education of the Natives	10,000

SCHEDULE B.

	£
The Hon. F. S. Haden, C.M.G., Colonial Secretary	600
The Hon. J. T. Polkinghorne, Colonial Treasurer	600
The Hon. W. B. Morcom, Q.C., Attorney-General	350
The Hon. H. C. Shepstone, Secretary for Native Affairs ...	600
The Hon. Lieut.-Colonel A. H. Hime, late R.E., C.M.G., Colonial Engineer	750

Act No. 1, 1893.

“To remove doubts as to the construction of Letters Patent of 20th July, 1893, and the Constitution Act of 1893.”

[8th November, 1893.]

WHEREAS by Section 4 of the Constitution Act of 1893, it is provided that all Charters, Ordinances, and Laws, which at the commencement of the said Act are in force within the Colony shall, until duly repealed or varied, continue to be of the same force, authority, and effect as if the said Act had not been passed, except in so far as the same are repugnant to the said Act, in which case they are by the said Act to that extent amended and repealed:

AND WHEREAS by Section 24 of the Constitution Act of 1893, it is provided that all existing Laws relating to the mode of election and all voters' lists and all other matters concerning elections shall be in force and shall apply to the election of Members to serve in the Legislative Assembly in the same manner as at the date of the said Act in respect of elections to the Legislative Council then subsisting:

AND WHEREAS the Clauses hereinafter more fully referred to of the Letters Patent of 15th July, 1856, known and cited as the Charter of Natal, relate to the mode of election and voters' lists, and to other matters concerning elections:

AND WHEREAS by Letters Patent dated the 20th day of July, 1893, the said Letters Patent of the 15th day of July, 1856, are expressed to be revoked, but without prejudice to anything lawfully done thereunder:

AND WHEREAS it is expedient that the said clauses of the Charter of Natal should be excluded from the general revocation contained in the said Letters Patent of 20th July, 1893:

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:—

1. The clauses of the Charter of Natal, set forth in the Schedule of this Act, shall, with the amendments thereof made by subsequent Laws, continue to be of the same force and effect as if the Letters Patent, dated the 20th day of July, 1893, had not passed under the Royal Sign Manual and the Great Seal of the United Kingdom, except in so far as the said clauses, or any of them, are repugnant to the Constitution Act of 1893 (A).

(A) For convenience of reference the Letters Patent of 20th July, 1893, together with the Instructions to Governor are printed after this Act.

Certain clauses of the Charter to continue in force.

2. The said scheduled clauses, and any of them, may be construed jointly with the said Act, and with any Laws (not being repugnant to said Act) in which reference is made to said clauses, or any of them, by express words or necessary implication. Act 1, 1893.
Construction of
scheduled
clauses.

SCHEDULE.

Clauses 11 (as amended by Law 2, 1883), 12, 13 (as amended by subsequent Laws), 14, 15, 31, 32, 33, 34, 35, 36, 37, 38, 44, 45 (as amended by Law 1, 1883), 50, and 53. Schedules.

LETTERS PATENT passed under the Great Seal of the United Kingdom, constituting the Office of Governor and Commander-in-Chief of the Colony of Natal.

VICTORIA, by the Grace of God of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, Empress of India: To all to whom these Presents shall come, Greeting.

WHEREAS by Our Letters Patent under the Great Seal of Our United Kingdom of Great Britain and Ireland bearing date the Fifteenth day of July, 1856, We did erect the District of Natal into a separate Colony to be called the Colony of Natal:

AND WHEREAS by the said Letters Patent and by certain other several Letters Patent under the said Great Seal bearing date respectively the Twenty-second day of December, 1869, the Twenty-second day of May, 1872, and the Twenty-seventh day of October, 1890, We did make provision for the Government of Our said Colony:

AND WHEREAS an alteration in the Constitution of Our said Colony has been effected by a law of the Colony styled the Constitution Act of 1893:

Now We do by these presents revoke Our said recited Letters Patent, but without prejudice to anything lawfully done thereunder, reserving nevertheless to Ourselves, Our heirs and successors, full power to disallow any Law passed by the Legislature of Our said Colony, and to signify such disallowance through one of Our Principal Secretaries of State at any time within two years after an authentic copy of such laws shall have been received by Us or by one of Our Principal Secretaries of State. And We do further hereby declare Our will and pleasure as follows:

II. There shall be a Governor and Commander-in-Chief in and over Our Colony of Natal (hereinafter called the Colony), and appointments to the said office shall be made by Commission under Our Sign Manual and Signet.

III. We do hereby authorise, empower and command Our said Governor and Commander-in-Chief (hereinafter called the Governor) to do and execute all things that belong to his said office, and to exercise the powers and authorities vested in him by the said Constitution Act of 1893, or by any other Act adding to, amending, or substituted for the same, and by these Our Letters Patent, or by any other Our Letters Patent adding to, amending, or substituted for the same, and by such Commission as may be issued to him under Our Sign Manual and Signet, and according to such Instructions as may from time to time be given to him under Our Sign Manual and Signet, or by Our Order in Our Privy Council, or by Us

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Patent.

through one of Our Principal Secretaries of State, and to such Laws as are now or shall hereafter be in force in the Colony.

IV. Every person appointed to fill the office of Governor shall, with all due solemnity, before entering on any of the duties of his office, cause the Commission appointing him to be Governor to be read and published at the seat of Government, in the presence of the Chief Justice or some other Judge of the Supreme Court of the Colony and of the Members of the Executive Council thereof; which being done, he shall then and there take before them the Oath of Allegiance in the form provided by an Act passed in the Session holden in the Thirty-first and Thirty-second years of Our reign, intituled "An Act to amend the Law relating to Promissory Oaths"; and likewise the usual Oath for the due execution of the office of Governor, and for the due and impartial administration of justice; which Oaths the said Chief Justice or Judge is hereby required to administer.

V. The Governor shall keep and use the Public Seal of the Colony for sealing all things whatsoever that shall pass the Public Seal.

VI. There shall be an Executive Council for the Colony, and the said Council shall consist of such persons as may at any time be Members thereof in accordance with any Law of the Colony, and of such other persons as the Governor shall, from time to time, in Our name and on Our behalf, but subject to any Law, as aforesaid, appoint under the Public Seal of the Colony to be Members of Our said Executive Council.

VII. The Governor, in Our name and on Our behalf, may make and execute under the said Public Seal, grants and dispositions of lands within the Colony, subject to the Laws in force for the time being for regulating the sale or disposal of Crown lands.

VIII. The Governor may constitute and appoint, in Our name and on Our behalf, all such Judges, Commissioners, Justices of the Peace, and other necessary Officers and Ministers in the Colony, as may be lawfully constituted or appointed by Us.

IX. When any crime has been committed within the Colony, or for which the offender may be tried therein, the Governor may, as he shall see occasion, in Our name and on Our behalf, grant a pardon to any accomplice in such crime who shall give such information as shall lead to the conviction of the principal offender, or of any one of such offenders, if more than one; and further, may grant to any offender convicted in any Court, or before any Judge or other Magistrate within the Colony, a pardon either free or subject to lawful conditions, or any remission of the sentence passed on such offender, or any respite of the execution of such sentence for such period as the Governor thinks fit, and further may remit any fines, penalties, or forfeitures due or accrued to Us. Provided always that the Governor shall in no case, except where the offence has been of a political nature, unaccompanied by any other grave crime, make it a condition of any pardon or remission of sentence that the offender shall absent himself or be removed from the Colony.

X. The Governor may, so far as We Ourselves lawfully may, upon sufficient cause to him appearing, remove from his office, or suspend from the exercise of the same, any person holding any office or place within the Colony under or by virtue of any Commission or Warrant or other instrument granted, or which may be granted, by Us or in Our name or under Our authority.

XI. The Governor may exercise all powers lawfully belonging to Us in respect of the summoning, proroguing, or dissolving any Legislative Body, which now is or hereafter may be established within the Colony, and in respect of the appointment of members thereto.

XII. In the event of the office of the Governor becoming vacant, or of the Governor being incapable, or of his departure from the Colony, Our Lieutenant Governor, or if there be no such officer in the Colony, then such person or persons as We may appoint under Our Sign Manual and Signet, shall during Our pleasure administer the Government of the Colony, first taking the Oaths hereinbefore directed to be taken by the Governor and in the manner herein prescribed; which being done, We do hereby authorise, empower, and command Our Lieutenant Governor, and every other such Administrator as aforesaid, to do and execute, during Our pleasure, all things that belong to the office of Governor and Commander-in-Chief, according to the tenor of these Our Letters Patent and according to Our Instructions as aforesaid and the Laws of the Colony.

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Patent.

XIII. Whenever and so often as the Governor shall be temporarily absent from the Colony in pursuance of any Instructions from Us through One of Our Principal Secretaries of State, or in the execution of any Letters Patent or any Commission under Our Sign Manual and Signet appointing him to be Our High Commissioner or Special Commissioner for any territories in South Africa with which it may be expedient that We should have relations, or appointing him to be Governor or to administer the Government of any Colony, province, or territory adjacent or contiguous to the Colony, or shall be absent from the Colony for the purpose of visiting the Governor of Our Colony of the Cape of Good Hope, or of visiting some neighbouring State, for a period not exceeding one month, then and in every such case the Governor may continue to exercise all and every the powers vested in him by these Our Letters Patent, or by any Instructions from Us, as fully as if he were residing within the Colony.

XIV. In the event of any such temporary absence of the Governor from the Colony, he may by an Instrument under the Public Seal of the Colony, constitute and appoint any person to be his Deputy during such temporary absence, and in that capacity to exercise, during his pleasure, all the powers and authorities vested in the Governor as aforesaid, or such of them as shall in and by such Instrument be specified and limited. Provided, nevertheless, that by the appointment of a Deputy as aforesaid, the power and authority of the Governor shall not be abridged, altered, or in any way affected, otherwise than We may at any time hereafter think proper to direct.

XV. And We do hereby require and command all Our Officers and Ministers, Civil and Military, and all other the inhabitants of the Colony, to be obedient, aiding and assisting unto the Governor or to such person or persons as may from time to time, under the provisions of these Our Letters Patent, administer the Government of the Colony.

XVI. In the construction of these Our Letters Patent, the term "Governor" unless inconsistent with the context, shall include every person for the time being administering the Government of the Colony.

XVII. And We do hereby reserve to Ourselves, Our heirs and successors, full power and authority from time to time to revoke, alter, and amend these Our Letters Patent as to Us or them shall seem meet.

XVIII. And We do direct and enjoin that these Our Letters Patent shall be read and proclaimed at such place or places within the Colony as the Governor shall think fit.

In witness whereof We have caused these Our Letters to be made Patent. Witness Ourselves at Westminster, the Twentieth day of July, in the Fifty-seventh year of Our Reign.

By Warrant under the Queen's Sign Manual.

MUIR MACKENZIE.

Instructions
to Governor.

INSTRUCTIONS to Our Governor and Commander-in-Chief in and over Our Colony of Natal, or to Our Lieutenant Governor or other Officer for the time being administering the Government of Our said Colony.

Given at Our Court at St. James's, this Twentieth day of July, 1893, in the Fifty-seventh year of Our Reign.

WHEREAS by certain Letters Patent bearing even date herewith We have constituted, ordered, and declared that there shall be a Governor and Commander-in-Chief (therein and hereinafter called the Governor) in and over Our Colony of Natal (therein and hereinafter called the Colony):

AND WHEREAS We have thereby authorised, empowered, and commanded the Governor to do and execute all things that belong to his said office, and to exercise the powers and authorities vested in him by a Law of the Colony styled the Constitution Act, 1893, or by any other Act adding to, amending, or substituted for the same, and by Our said Letters Patent, or by any other Our Letters Patent adding to, amending, or substituted for the same, and by such commission as may be issued to him under Our Sign Manual and Signet, and according to such instructions as may from time to time be given to him under Our Sign Manual and Signet, or by Our Order in Our Privy Council, or by Us through one of Our Principal Secretaries of State, and to such Laws as are now or shall hereafter be in force in the Colony:

AND WHEREAS We did issue certain Instructions under Our Sign Manual and Signet, bearing date the Sixteenth day of February, 1882, and certain Additional Instructions bearing date respectively the Sixth day of June, 1885, and the Sixth day of December, 1889; Now know you that We do hereby revoke the aforesaid Instructions and Additional Instructions and We do by these Our Instructions under Our Sign Manual and Signet direct and enjoin and declare Our Will and Pleasure as follows:—

I. In these Our Instructions, unless inconsistent with the context, the term "Governor" shall include every person for the time being administering the Government of the Colony.

II. The Governor may, whenever he thinks fit, require any person in the public service to take the Oath of Allegiance, together with such other Oath or Oaths as may from time to time be prescribed by any Law in force in the Colony. The Governor is to administer such Oaths or cause them to be administered by some Public Officer of the Colony.

III. The Governor shall forthwith communicate these Our Instructions to the Executive Council, and likewise all such others, from time to time, as he shall find convenient for Our service to impart to them.

IV. The Executive Council shall not proceed to the despatch of business unless duly summoned by authority of the Governor, nor unless two Members at the least (exclusive of himself or of the Member presiding) be present and assisting throughout the whole of the meetings at which any such business shall be despatched.

V. The Governor shall attend and preside at the meetings of the Executive Council, unless prevented by some necessary or reasonable cause, and in his absence such Member as may be appointed by him in that behalf, or in the absence of such Member the senior Member of the Executive Council actually present shall preside; the seniority of the Members of the said Council being regulated according to the order of their respective appointments as Members thereof.

VI. Before exercising the powers of Supreme Chief, other than those by Law vested in the Governor in Council, the Governor shall acquaint his Ministers with the action which he proposes to take, and so far as may be possible shall arrange with them as to the course of action to be taken. The ultimate decision must, however, in every case rest with the Governor. Instructions to Governor.

VII. In the execution of all other powers and authorities vested in him the Governor shall be guided by the advice of the Executive Council, but if in any case he shall see sufficient cause to dissent from the opinion of the said Council, he may act in the exercise of his said powers and authorities in opposition to the opinion of the Council, reporting the matter to Us without delay, with the reasons for his so acting.

In any such case it shall be competent to any Member of the said Council to require that there be recorded upon the Minutes of the Council the grounds of any advice or opinion that he may give upon the question.

VIII. The Governor shall not, except in the cases hereunder mentioned, assent in Our name to any Bill of any of the following classes:—

1. Any Bill for the divorce of persons joined together in holy matrimony.

2. Any Bill whereby any grant of land or money, or other donation or gratuity, may be made to himself.

3. Any Bill affecting the currency of the Colony.

4. Any Bill imposing differential duties.

5. Any Bill the provisions of which shall appear inconsistent with obligations imposed upon Us by Treaty.

6. Any Bill interfering with the discipline or control of Our forces in the Colony by land or sea.

7. Any Bill of an extraordinary nature and importance, whereby Our prerogative, or the rights and property of Our subjects not residing in the Colony, or the trade and shipping of the United Kingdom and its dependencies may be prejudiced.

8. Any Bill whereby persons not of European birth or descent may be subjected or made liable to any disabilities or restrictions to which persons of European birth or descent are not also subjected or made liable.

9. Any Bill containing provisions to which Our assent has been once refused, or which have been disallowed by Us;

Unless he shall have previously obtained Our Instructions upon such Bill through one of Our Principal Secretaries of State, or unless such Bill shall contain a clause suspending the operation of such Bill until the signification in the Colony of Our pleasure thereupon, or unless the Governor shall have satisfied himself that an urgent necessity exists requiring that such Bill be brought into immediate operation, in which case he is authorised to assent in Our name to such Bill, unless the same shall be repugnant to the law of England, or inconsistent with any obligations imposed upon Us by Treaty. But he is to transmit to Us by the earliest opportunity the Bill so assented to, together with his reasons for assenting thereto.

IX. Whenever any offender shall have been condemned to suffer death by the sentence of any Court, the Governor shall consult the Executive Council upon the case of such offender, submitting to the Council any report that may have been made by the Judge who tried the case; and, whenever it appears advisable to do so, taking measures to invite the attendance of such Judge at the Council. The Governor shall not pardon or reprieve any such offender unless it shall appear

Instructions
to Governor.

to him expedient so to do, upon receiving the advice of the Executive Council thereon; but in all such cases he is to decide either to extend or to withhold a pardon or reprieve, according to his own deliberate judgment, whether the Members of the Executive Council concur therein or otherwise; entering nevertheless on the Minutes of the Executive Council, a Minute of his reasons at length in case he should decide any such question in opposition to the judgment of the majority of the Members thereof.

X. All Commissions granted by the Governor to any persons to be Judges, Justices of the Peace, or other officers, shall, unless otherwise provided by Law, be granted during pleasure only.

XI. The Governor, except in the execution of any Letters Patent or of any Commission under Our Sign Manual and Signet, shall not upon any pretence whatever quit the Colony without having first obtained leave from Us for so doing under Our Sign Manual and Signet, or through one of Our Principal Secretaries of State, unless for the purpose of visiting the Governor of Our Colony of the Cape of Good Hope, or of visiting some neighbouring State for periods not exceeding one month at any one time, nor exceeding in the aggregate one month for every year's service in the Colony.

Act No. 19, 1895.

“To repeal and re-enact, with amendments, the ‘Election Petitions Law, 1883.’”

[8th August, 1895.]

WHEREAS by the Constitution Act of 1893 there was established in this Colony in place of the Legislative Council then subsisting, a Legislative Council and a Legislative Assembly, as thereby constituted:

AND WHEREAS it is expedient to repeal and re-enact, with amendments, the “Election Petitions Law, 1883,” so as to adapt the provisions of the said Law to the altered circumstances arising out of the said Constitution Act of 1893:

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:—

1. The Election Petitions Law, 1883, shall be, and the same is hereby, repealed: Provided that any and all rules, orders, and regulations made under the said repealed Law shall, save so far as they may be contrary to this Act or any rules, orders, or regulations thereunder, remain in full force and effect until altered, added to, amended, or repealed in terms of this Act.

2. This Act may be cited as the “Election Petitions Act, 1895.”

3. All questions of disqualification or of undue election or undue return alleged against any member of the Legislative Assembly, whether such questions relate to the want of qualification or to other matters of disqualification or undue return, shall be inquired into and determined in manner and form hereinafter provided: Provided, however, that in all cases the Voters' Roll then legally in force shall be taken to be, and shall be, the test of qualification in respect of votes recorded at the election in dispute, such votes having been otherwise legally recorded, and returned by the Returning Officer as so recorded; but that whenever it shall appear to the presiding Judge that the votes have been returned by the Returning Officer of persons whose names do not appear on the Voters' Roll, or of persons who have voted in their wrong Wards, it shall be competent for such Judge to

Repeal of Law
16, 1883.

Short title.
Enquiry into
questions of
dis-qualifica-
tion, undue
election, or
undue return.

amend the return made by such Returning Officer, by expunging from the return the names of such persons as aforesaid. In the case of any person whose vote has been recorded and returned for more than one Ward, the presiding Judge shall order the return to be amended so as to count such vote as only one on the return.

Act 19, 1895.

4. From and after the commencement of this Act a petition complaining of want of qualification or of undue election or undue return of any member of the Legislative Assembly of Natal, may be presented to the Assembly, through the Speaker, by any one or more of the following persons:—

Presentation of petition.

- (a) Some person who voted, or who had a right to vote at the election to which the petition relates;
- (b) Some person claiming to have had a right to be returned or elected at such election;
- (c) Some person alleging himself to have been a candidate at such election.

The following conditions shall be observed with respect to the presentation of Election Petitions under this Act:—

Conditions to be observed.

The Petition shall be signed by the Petitioner, or Petitioners if more than one.

The Petition shall be lodged with the Clerk of the Legislative Assembly within fourteen days after the result of the election has been notified in the "GOVERNMENT GAZETTE."

At the time of the presentation of the petition, security shall be given on behalf of the petitioner to the satisfaction of the Speaker, or, in the absence of the Speaker, to the satisfaction of the Clerk of the Legislative Assembly, to the amount of £200, or for such other larger sum as they may determine for the payment of all costs, charges, and expenses to any witness or to any member whose election or return is complained of. Such petition shall contain full particulars of the grounds of the objection to the election or return complained of; and at the trial of such petition the petitioner shall be confined to the grounds of objection therein contained.

Security for costs.

5. Objection may be made to the security given, by the Speaker or the Clerk of the Legislative Assembly, or by any party interested in the Petition, and any such objection shall be decided within such period, and in such manner, as may be arranged by the Speaker or the Clerk of the Legislative Assembly. If any objection to the security is allowed, it shall be lawful for the petitioner, within a further time to be fixed by the Speaker or the Clerk of the Legislative Assembly, not exceeding ten days, to remove such objection by a deposit of such sum of money as may be deemed proper by the said Speaker or Clerk to make the security sufficient. If on objection made, the security is decided to be insufficient, and such objection is not removed, in manner hereinbefore mentioned, no further proceeding shall be had on the petition. Otherwise on the expiration of the time limited for making objections, or after objection made on the sufficiency of the security being established, the petition shall be deemed to be at issue.

Objections to security.

6. Upon the security hereinbefore mentioned being given by the party petitioning, the Speaker shall, if the Assembly be then sitting, or if the Assembly be not sitting, then at the sitting of the said Assembly next after the receipt of such petition, inform the said Assembly of the nature of the contents thereof, when, should the member in question, within three days, not admit, in writing, the truth of the matters alleged in such petition, and resign his seat, or within the same period neglect or refuse to answer at all to the allegations set forth in the petition, the Clerk of the Legislative Assembly shall forward the petition to the Registrar of the Supreme

Speaker to inform Assembly of petition.

- Act 19, 1895.** Court, who shall forthwith send a copy thereof to the Magistrate or Magistrates of the Electoral District to which such petition relates. Every copy of such petition so forwarded shall remain at the office of the Magistrate or Magistrates of the Electoral District open to the inspection of all parties concerned; On the resignation of such Member taking place, the Governor or Speaker, as the case may be, shall forthwith declare the candidate at the election who stood next on the return of votes made up by the Returning Officer at the election to be the Member duly elected.
- Lodging of petition with Registrar, and procedure thereon.** 7. The trial of every Election Petition shall take place in some suitable place in the District or Borough for which the disputed election was held, and such inquiry shall be conducted in open Court, without a jury, before one of the Judges of the Supreme Court, to be selected for that purpose by that Court, with right of appeal to the Supreme Court on points of law.
- On resignation of member, next candidate to be declared elected.** The Judge so selected shall be nominated on the first day of term (A) in the month of January in each year, and shall, during that year, be the Judge for the trial of Election Petitions. The Registrar of the Circuit Court for the Electoral District shall act as Registrar of the Court appointed for the trial of an Election Petition in the said District; and the Registrar of the Supreme Court shall, within seven days before the date fixed for the said trial, forward the Election Petition, and all other documents duly lodged with him in connection therewith, to the Registrar of the Circuit Court for the District within which such trial is appointed to be held.
- Trial of petition.** 8. In the event of the death, absence or incapacity of the Judge so nominated, it shall be lawful for the Supreme Court to nominate one of the Judges of the Supreme Court, who shall continue to be the Judge for the trial of Election Petitions until the 31st day of December thence next ensuing.
- Election Judge.** 9. Notice of the date of the trial of an Election Petition shall be given by the petitioner or his agent to the Member whose election or return is objected to, and to the Registrar of the Supreme Court, not less than fourteen days before the date fixed for the same, and within ten days after the petition shall have been forwarded by the Speaker to the Registrar of the Supreme Court aforesaid, as hereinbefore provided.
- Lodging of documents in Circuit Courts.** 10. The Judge presiding at the trial may adjourn the same from time to time, as occasion may require.
- Election Judge.** 11. At the conclusion of such trial, the Judge shall determine whether the member whose return or election is complained of, or any and what other person, was duly returned or elected, or whether the election was void. The Judge shall make an order embodying such determination, and the Registrar of the Supreme Court, or the Registrar of the Circuit Court, as the case may be, shall forthwith certify in writing such order to the Governor, or the Speaker, as the case may be, and upon such certificate being given such order shall be final to all intents and purposes.
- Notice of trial.** 12. The Judge may, at the same time, add to such order a special report as to any matters arising in the course of the trial, an account of which, in his judgment, ought to be submitted to the Legislative Assembly. The Registrar of the Supreme or Circuit Court, as the case may be, shall forthwith forward a certified copy of such report to the Clerk of the Legislative Assembly, and such report shall be presented to the Legislative Assembly by the Speaker.
- Adjournments.**
- Judgment.**
- Special report by Judge.**

(A) A nomination which did not take place on this day was validated by Statute; see Act 4, 1897, post.

13. If the Court shall determine that some person other than the member whose return or election is complained of was duly elected, such member shall forthwith be deemed to have vacated his seat, and such Court shall forthwith certify as aforesaid such determination to the Governor or Speaker, as the case may be, who, upon receipt of such certificate, shall forthwith, by notice in the "GOVERNMENT GAZETTE," declare the person who has been adjudged and declared by the Court to have been duly elected, to be so elected.

Act 19, 1895.
Vacation of seat by member

Notice of election of other person.

14. The Supreme Court may, from time to time, make such rules, orders, and regulations concerning any of the following matters, and generally for the effectual carrying out of this Act as to the Court shall seem fit, that is to say:—

Rules and orders by Supreme Court.

- (a) The form of recognizance required under this Act; and generally, the proceedings relative to the security required thereunder.
- (b) The manner in which an Election Petition and other documents required by this Act shall be served.
- (c) The manner in which an Election Petition may be withdrawn.
- (d) The proceedings in the case of a notice of intention not to oppose an Election Petition.
- (e) The admission and hearing of Counsel.
- (f) The summoning and examining of witnesses and the production of books, documents, and records in evidence.

15. Any rules, orders, or regulations made in pursuance of the preceding section shall be laid before the Legislative Assembly within Fourteen days after they are made, if the Legislative Assembly be then sitting; and if the Assembly be not then sitting, within fourteen days after the beginning of the then next session.

Rules, &c., to be laid before Assembly.

16. Witnesses shall be subpoenaed and sworn in the same manner as in a civil trial before the Supreme Court, and shall be subjected to the same penalties for perjury, and shall be paid according to the scale authorised by rule of the Supreme Court to be paid in civil cases.

Witnesses.

17. The Judge may, by order under his hand, compel the attendance of any person as a witness whom he may consider to have been concerned in any election in dispute. Any person refusing to obey such order shall be guilty of contempt of Court. The Judge may examine any such witness or any other person in Court, although such witness is not called and examined by any party to the petition. The Judge may, by order under his hand, require the production of any lists, books, documents, or writings which he may consider material to the case.

Compelling attendance of witness.

Judge may examine any person in Court.

18. If, before the trial of an Election Petition, any of the following events happen in the case of the respondent, that is to say:—

Notice to be given in case of certain events happening.

- (a) If he dies;
- (b) If the Assembly resolves that his seat is vacant;
- (c) If he fails within the time hereinbefore provided to give notice to the Registrar that he intends to oppose the Petition;
- (d) If he gives, in and at the prescribed manner and time, notice to the Court that he does not intend to oppose the Petition;

notice of such event having taken place shall be given by advertisement in the Electoral District to which the Petition relates.

In the two first-mentioned cases, such notice shall be given by the Clerk of the Assembly, and in the two last-mentioned cases it shall be given by the Registrar.

Act 19, 1895.

Application to
be admitted as
a respondent.

Within the prescribed time after the notice is given, any person who might have been a petitioner in respect of the election to which the Petition relates, may apply to the Elections Judge to be admitted as a respondent to oppose the Petition, and such person shall, on such application, be admitted accordingly, either with the respondent, if there is a respondent, or in place of the respondent; and any number of persons not exceeding three may be so admitted.

Costs.

19. The costs and expenses consequent upon any Election Petition shall be defrayed by the parties to such petition in such manner as the Judge may direct: Provided that it shall be within the jurisdiction of the Judge to disallow any costs or expenses which shall appear to him to be improperly incurred. The costs may be taxed according to the same principles as costs between attorney and client are taxed in a civil suit before the Supreme Court, and such costs may be recovered in the same manner as the costs in a civil action at law.

Forfeiture of
recognizance.

20. If any petitioner in an Election Petition presented under this Act neglect or refuse for the space of one month after demand to pay to any person summoned on his behalf, or to the respondent, any sum certified by the Registrar of the Supreme or Circuit Court, as the case may be, to be due to him for costs or expenses, the recognizance entered into by such petitioner shall be forfeited, and the Registrar shall certify to that effect, and such recognizance shall be estreated in the usual manner.

Counsel.

21. Subject to any rules, orders, or regulations, made in that behalf by the Supreme Court, as hereinbefore provided, any person allowed to practise as an advocate of the Supreme Court shall be admitted as Counsel to plead before the Court appointed to try an Election Petition; and, subject always as aforesaid, any Attorney of the Supreme Court shall be entitled to practise as an Attorney in the case of any such petition.

Attorneys.

Writ to fill
vacancy.

22. If and when it shall be certified to the Speaker, in terms of this Act, that any election is void, and a vacancy shall thereby occur in the Legislative Assembly, the Speaker shall, after reporting the matter to the Legislative Assembly, if then in session, cause a writ to be issued for filling such vacancy.

Issue of writ
during recess.

23. The Speaker may, in the case of a vacancy so occurring as aforesaid, issue such writ forthwith, if the Legislative Assembly is not in Session.

Issue of writ by
Clerk of
Assembly.

24. In the event of the death, absence, or incapacity of the Speaker, a writ for filling a vacancy may be issued by the Clerk of the Legislative Assembly.

Form of writs.

25. All writs under this Act shall be issued in such manner and form as in the Schedule to this Act.

Returning
officers.

26. For the purposes of this Act the Magistrate for the County or Division, or other person appointed by the Governor for the purpose, shall be deemed to be the Returning Officer referred to herein.

SCHEDULE.

Form of Writ.

To the Resident Magistrate for the

Schedule.

WHEREAS by the Election Petitions Act, 1895, it is provided that when any election is declared void and a vacancy shall thereby occur in the Legislative Assembly, the Speaker of the said Legislative Assembly shall cause a Writ to be issued for filling such vacancy:

AND WHEREAS it has been duly certified to me in terms of the said Election Petitions Act, 1895, that the election of
to serve in the said Legislative Assembly is void, and a vacancy has

thereby occurred in the said Legislative Assembly of
Member to serve therein for the Electoral District of

Act 19, 1895.

Now, THEREFORE, in accordance with the provisions of the said
Election Petitions Act, 1895, I do, in pursuance of the powers in
me vested, ordain and require that you do cause to be elected according
to Law Member to serve in the Legislative
Assembly of Natal for the Electoral District of
and further, that you do without delay return to me this Writ, with
the name of the person so elected, written and duly certified on
the back hereof.

Given under my hand at
this day of 189

.....
Speaker of the Legislative Assembly of Natal.

[Or, in the name of the Speaker of the Legislative Assembly,
as the case may be.]

.....
Clerk of the Legislative Assembly.

The within Writ received by me this day
of 189

.....
Resident Magistrate.

I hereby certify that in pursuance of the within written
Writ
by election held on the day of 189 ,
^{was} duly elected to serve in the Legislative Assembly for the Electoral
_{were} District of

Dated at this day of 189

.....
Resident Magistrate and Returning Officer.

Number of Votes polled at the Election :

.....
Resident Magistrate.

Received by me this day of 189

Act No. 8, 1896.

“To amend the Law relating to the Franchise

[22nd May, 1896.]

WHEREAS it is expedient to amend the Law relating to the
Franchise :

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:—

1. Act No. 25, 1894, shall be and the same is hereby repealed.

Repeal.

2. Save those who come under the operation of Section 3 of this
Act, no persons shall be qualified to have their names inserted in any
List of Electors, or in any Voters' Roll, or to vote as Electors within
the meaning of Section 22 of the Constitution Act of 1893, or of any
Law relating to the election of members of the Legislative Assembly,
who (not being of European origin) are Natives or descendants in

Exclusion from
Voters' Roll of
certain persons
not of European
origin.

Act 8, 1896.
Governor may
exempt.

Exceptions to
provisions of
sec. 2.

the male line of Natives of countries which have not hitherto possessed elective representative institutions founded on the Parliamentary Franchise, unless they shall first obtain an order from the Governor in Council exempting them from the operation of this Act.

3. The provisions of Section 2 of this Act shall not apply to persons of the class mentioned in that section whose names are rightly contained in any Voters' Roll in force at the date of the promulgation of this Act, and who are otherwise competent and qualified as electors.

Act No. 4, 1897.

“To remove doubts as to the validity of the nomination of the Judge selected by the Supreme Court for the trial of Election Petitions during the year 1897.”

[22nd May, 1897.]

WHEREAS it is enacted by the “Election Petitions Act, 1895,” Section No. 7, that the Judge selected for the trial of Election Petitions shall be nominated on the first day of term in the month of January in each year:

AND WHEREAS the nomination of Robert Isaac Finnemore as such Judge for the year 1897, did not take place until the 30th day of January, 1897:

AND WHEREAS it is expedient to remove any doubts which may arise as to the validity of the said nomination:

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:—

Nomination of
Robert Isaac
Finnemore
declared valid.

1. The nomination of Robert Isaac Finnemore, one of the Puisne Judges of the Supreme Court of this Colony, selected by the said Court for the trial of Election Petitions during the year 1897, shall be, and the same is hereby declared to be, as valid and effectual, to all intents and purposes, as if such nomination had been made on the first day of term in the month of January in the said year.

Act No. 10, 1898.

“To provide for the Parliamentary Representation of the Province of Zululand.”

[28th June, 1898.]

WHEREAS by “The Zululand Annexation Act, 1897,” it is, amongst other things, provided that all persons living in Zululand, who, if in the Colony of Natal would have enjoyed franchise rights, are declared entitled thereto, but that the exercise of such rights shall be postponed until the necessary provisions shall have been made in that behalf by Parliament, and that a Bill for such purpose shall be submitted by the Governor to Parliament at its next ordinary Session:

AND WHEREAS it is provided by “The Constitution Act of 1893” that the Legislative Council of Natal shall consist of eleven members, and that the Legislative Assembly shall consist of thirty-seven members, summoned and chosen respectively from the Districts appointed by the said Act:

AND WHEREAS it is desirable to provide for the Representation of the Province of Zululand in the Parliament of Natal, and for that purpose to amend the Constitution Act of Natal of 1893:

BE IT THEREFORE ENACTED by the Queen's Most Excellent Majesty, Act 10, 1898.
by and with the advice and consent of the Legislative Council and
Legislative Assembly of Natal, as follows:—

1. This Act shall be known as "The Parliamentary Representation of Zululand Act, 1898." Short title.
2. The Legislative Council of Natal shall consist of twelve members in place of eleven members as provided by Section 14 of the Constitution Act, 1893. (A) Amendment of sec. 14, Law 14, 1893.
3. The Province of Zululand 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: Provided that no such member shall be summoned before the First day of October, 1898. Zululand to be a district under sec. 19, Law 14, 1893.
4. The Legislative Assembly shall consist of thirty-nine members in place of thirty-seven members, as provided by Section 22 of the Constitution Act, 1893. (B) Assembly to consist of 39 members.
5. The Province of Zululand shall be divided into two electoral districts, as follows:—

The electoral district of Eshowe, which shall comprise that part of the Province of Zululand on the southern side of the River Umhlatuzi.

The electoral district of Melmoth, which shall comprise that part of the Province of Zululand on the northern side of the River Umhlatuzi.

Division of Zululand into electoral districts.
6. One member of the Legislative Assembly shall be chosen by the electors of the electoral district of Eshowe, and one member by the electors of the electoral district of Melmoth: Provided that no such member shall be chosen before the First day of October, 1898. Number of elective members.
7. For the purpose of summoning a member of the Legislative Council for the District of Zululand and of the election of members of the Legislative Assembly for the electoral districts of Eshowe and Melmoth, the said districts 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 Legislative Assembly.
8. 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 relating to the registration and qualification 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 Province of Zululand. Royal Charter of 15th July, 1856, and Laws of Natal relating to election proceedings to apply to Zululand.
9. The voters' rolls for the electoral districts of the Province of Zululand shall be brought into use on the First day of September, 1898. Voters' rolls.

II. PRIVILEGE OF PARLIAMENT.

Law No. 1, 1857 (A).

“To secure Freedom of Speech and Debates or Proceedings in the Legislative Council, and to give summary protection to persons employed in the publication of its papers.”

[21st April, 1857.]

WHEREAS, it is essential to the due and effectual exercise and discharge of the functions and duties of the Legislative Council, and to the promotion of wise legislation, that the freedom of speech and debates or proceedings in the said Council, should not be impeached or questioned in any court or place out of the Legislative Council, and that no obstruction or impediment should exist to the publication of such reports, papers, votes, or proceedings of the Legislative Council, as such Council may deem fit or necessary to be published :

AND WHEREAS, it is fit that such freedom should be secured by law, and that all such obstructions or impediments, should any arise, may be summarily removed :

BE IT THEREFORE ENACTED, by the Lieutenant Governor, by and with the consent of the Legislative Council :

1. That there shall be freedom of speech and debates in the Legislative Council, and that such freedom of speech and debates or proceedings in the Legislative Council, shall not be liable to be impeached or questioned in any court or place out of the Legislative Council.

2. And be it enacted, that it shall and may be lawful for any person or persons, who may be a defendant or defendants in any civil or criminal proceeding commenced or prosecuted in any manner soever, for or in respect of the publication of any report, paper, votes, or proceeding by such person or persons, by or under the authority of the Legislative Council, to bring before the Court in which such proceeding shall be so commenced or prosecuted, or before any judge thereof (should the proceeding be in the District or any superior Court in this Colony), first giving twenty-four hours' notice of his intention so to do, to the plaintiff or prosecutor in such proceeding, a certificate, in the hand of the Speaker of the Legislative Council for the time being, or of the Clerk of the Legislative Council, stating that the report, paper, votes, or proceeding, as the case may be, in respect whereof such civil or criminal proceeding shall have been commenced or prosecuted, was or were published by such person or persons, or by his or their servant or servants, by order or under the authority of the Legislative Council, together with an affidavit verifying such certificate. And such court or judge shall thereupon immediately stay any such civil or criminal proceedings, and the same and every writ or process issued thereon shall be deemed and taken to be finally put an end to, determined, and superseded, by virtue of this Law.

3. Provided always, and it is hereby expressly declared and enacted, that nothing herein contained shall be deemed, or taken, or held, or construed, directly or indirectly, by implication or otherwise, to affect the rights and privileges of the Legislative Council in any manner whatsoever.

4. That this Law shall commence and take effect from and after the promulgation thereof (B).

(A) Compare Act 3 & 4 Vic. c. 9, and *Stockdale v. Hansard* (9 Ad. & E. 1; 2 see the great case on this subject, P. & D. 1).

(B) May 5, 1857.

Freedom of
Speech and
debates.

Publication of
Reports,
Papers, &c., by
authority of
Council not
actionable.

Rights of the
Council not
affected.

Commencement

Law No. 14, 1893 (A).

“ To provide for the establishment of Responsible Government in Natal.”

[3rd July, 1893.]

42. It shall be lawful for the Legislature of the Colony by any Law to define the privileges, immunities, and powers to be held, enjoyed, and exercised by the Legislative Council and Legislative Assembly, and by the Members thereof respectively: Provided that no such privileges, immunities, or powers shall exceed those for the time being held, enjoyed, and exercised by the Commons House of Parliament or the Members thereof.

Privileges of Parliament.

Act No. 27, 1895.

“ To Define the Privileges, Immunities, and Powers of the Legislative Council and Legislative Assembly of Natal respectively.”

[24th August, 1895.]

WHEREAS by the Constitution Act of 1893 it was, amongst other things, enacted that there should be established in Natal, in place of the Legislative Council then subsisting, a Legislative Council and a Legislative Assembly, to be severally constituted as therein provided; and further, that it should be lawful for the Legislature of the said Colony by any Act to define the privileges, immunities, and powers to be held, enjoyed, and exercised by the Legislative Council and Legislative Assembly, and by the members thereof respectively, provided that no such privileges, immunities, or powers shall exceed those for the time being held, enjoyed, and exercised by the Commons House of Parliament or the members thereof (B):

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:—

1. In the interpretation of this Act

Interpretation.

- (1) The term “ Parliament ” shall include the Legislative Council and the Legislative Assembly, and the term “ House of Parliament ” may mean the Legislative Council or the Legislative Assembly.
- (2) The term “ President ” shall mean and be taken to apply to the officer or member for the time being presiding over the Legislative Council.
- (3) The term “ Speaker ” shall mean and be taken to apply to the officer or member for the time being presiding over and duly elected as such by the Legislative Assembly.
- (4) The term “ Clerk ” shall be taken to mean the officer holding such appointment under the authority or appointment of the said Legislative Council or the President thereof, or of the Legislative Assembly or the Speaker thereof, with the approval of the Governor in Council.
- (5) The term “ House ” or “ Houses of Parliament ” shall mean the Legislative Council and Legislative Assembly, or either of them.

(A) See this Law in full, ante p. 25.

(B) The leading case defining the privileges of the House of Commons is *Stockdale v. Hansard* (9 Ad. & E. 1; 2 P. & D. 1). See also *Ex pte. Sheriff of Middlesex, In re Stockdale v. Hansard*, 8 Dowl. 148, and *Burdett v. Abbott*, 14 East, 1, 154.

Act 27, 1895.

Power to order attendance of persons and production of documents.

2. Each House of Parliament and any Committee of either House duly authorised by the House to send for persons and papers, may order any person to attend before the House or before such Committee, as the case may be, and also to produce to such House or Committee any paper, book, record or document in the possession or power of such persons.

Mode of compelling attendance and production of documents.

3. Any such order to attend or to produce documents before either House shall be notified to the person required to attend or to produce documents by a summons under the hand of the Clerk of the said House, by direction of President or Speaker, as the case may be; and any such order to attend or to produce documents before any such Committee shall be notified to the person required to attend or to produce documents by a summons under the hands of the Clerk of the House, authorised by the Chairman of the Committee; and in every such summons shall be stated the time when, and place where the person summoned is to attend, and the particular documents which he is required to produce, and such summons shall be served on the person mentioned therein either by delivering to him a copy of such summons or by leaving a copy of the same with some adult person at his usual or last known place of abode in the Colony, and there shall be paid or tendered to the person so summoned, if he shall not reside within five miles of the Houses of Parliament, a reasonable sum for his expenses of attendance according to any standing rule or order in that behalf.

Expenses.

Attendance of members of one House before the other House.

4. A member of Parliament, who shall be summoned to attend before the House, or a Committee of the House, of which he is not a member, shall not be at liberty so to attend without the consent of the House of which he is a member, and shall not be bound so to attend without an order of the House of which he is a member.

Refusal to attend or produce documents.

5. If any person ordered to attend or produce any paper, book, record, or document to either House, or to any Committee of either House, shall refuse to answer any question that may be put to him, or to produce any such paper, book, record or document on the ground that the same is of a private nature and does not affect the subject of enquiry, the President or Speaker or the Chairman of the Committee, as the case may be, shall report such refusal, with the reason thereof, and the House shall thereupon excuse the answering of such question or the production of such paper, book, record or document, or order the answering or production thereof, as the circumstances of the case may require.

Punishment for contempt.

6. Each House of Parliament may summarily punish for contempt to the extent and according to the Standing Orders thereof by fines and fees or either; and in case such fine and fees or either so imposed shall not be paid, by imprisonment in the custody of any keeper of a gaol or in the custody of its own officer in such gaol or other place as the House may direct, until payment shall be made, or for a period not later than until the end of the then existing session, for or in respect of any of the offences hereinafter enumerated whether committed by a member of the House or by any other person:—

- (1) Disobedience to any order of either House, or of any Committee duly authorised in that behalf, to attend or to produce papers, books, records or documents before the House or such Committee unless excused by the House in the manner aforesaid.
- (2) Refusing to be examined before or to answer any lawful and relevant question put by the House or any such Committee unless excused by the House in manner aforesaid.

- (3) Offering any bribe to or attempting to bribe a member. Act 27, 1895.
- (4) Creating or joining in any disturbance in the House or in the vicinity of the House while the same is sitting, whereby the proceedings of such House may be interrupted.
- (5) Any of the contempts from time to time set forth and declared to be such in any Standing Order of either House.

7. For the purpose of punishing any of the contempts aforesaid, the President or Speaker, as the case may be, is hereby empowered upon the resolution in that behalf of the House to issue his warrant under his hand for the apprehension and imprisonment, as aforesaid, of any person adjudged by the House guilty of any such contempt, if such fine or fees or either shall not have been paid as aforesaid. Warrant of apprehension and imprisonment.

8. Any person creating or joining in any disturbances in the House during its actual sitting may be apprehended without warrant on the verbal order of the President or Speaker, as the case may be, and may be kept in the custody of the officer of such House until a warrant can be made out for the imprisonment of such person in manner aforesaid. Disturbance in the House.

9. Every such warrant shall contain a statement that the person therein mentioned has been adjudged guilty of contempt by the House, the President or Speaker whereof shall have issued the same, and every warrant shall be sufficient from which it can be reasonably inferred that the person mentioned therein has been adjudged guilty of any of the contempts aforesaid, and no particular form shall be necessary to be observed in such warrants. Particulars of warrant.

10. The Sheriff and his officers and all constables and other persons are hereby required to assist in the apprehension and detention of any person, in pursuance of the verbal order, as aforesaid, of the President or Speaker, as the case may be, and also to be aiding and assisting in the execution of any such warrant as aforesaid, and where any such warrant directs that the person mentioned therein shall be imprisoned in any gaol or other place, the keeper thereof is hereby required to receive such person into his custody in the said gaol, or other place, and there to imprison him according to the tenor of the warrant. Sheriff, constables, and others, to assist in executing warrant.

11. It shall be lawful for any person charged with or assisting in the execution of any warrant under the hands of the President or Speaker, issued under the authority of this Act, to break open in the daytime all doors of places where the person for whose apprehension such warrant was issued may be concealed. Breaking open doors to effect arrest.

12. Every witness, whether before a Committee of the Whole House or in the House itself, or in a Select Committee, may be put upon oath before giving evidence: Provided that any person objecting from conscientious scruples to make an oath may be required to make a promise and declaration to the effect following, that is to say:— "I do sincerely promise and declare that the evidence I shall give in this matter shall be the truth, the whole truth, and nothing but the truth." And such promise and declaration having been made by any witness as aforesaid, shall, for all purposes of or in respect of a prosecution for perjury, falsity, or the like, be deemed an oath. Oath or declaration to be taken by witness.

13. The oath to be taken by a witness may be administered by the President, Speaker, or Chairman of a Committee or Officer or person appointed for that purpose. Who may administer oath.

14. If any person before either House, or before any Committee of either House, shall, after having duly sworn or declared as aforesaid, give a wilfully false answer to any lawful and relevant question material to the subject of inquiry which shall be put to him during the course False evidence.

Act 27, 1895. of any examination, he shall be guilty of an offence, and shall be liable, on conviction by any Court of Law, to be punished in the same manner as though he had been convicted of perjury.

Privileged evidence.

15. The evidence of a witness before either House of Parliament or any Committee of either House shall be privileged in the same way as that of a witness before the Supreme Court.

Protected publications.

16 (A). Inasmuch as it is essential to the due and effectual exercise and discharge of the functions and duties of the Legislature that no obstructions or impediments should exist to the publication of such reports, papers, votes or proceedings of the Legislative Council and Assembly as the said Council or Assembly may deem fit or necessary to be published: and whereas obstructions or impediments to such publication may hereafter arise by means of civil or criminal proceedings being taken against persons employed by or acting under the authority of the said Council or Assembly in the publication of such reports, papers, votes or proceedings, by reason and for remedy whereof it is expedient that protection should be afforded to all persons acting under the authority aforesaid: Be it enacted that it shall and may be lawful for any person or persons who shall be a defendant or defendants in any civil or criminal proceedings commenced or prosecuted in any manner soever for or on account or in respect of the publication of any such reports, papers, votes or proceedings by such person or persons, or by his or their servant or servants, or by or under the authority of the Legislative Council or Assembly, to bring before the Court in which such proceeding shall have been, or shall be so commenced or prosecuted, or before any judge of the same, first giving twenty-four hours' notice of his intention so to do to the prosecutor or plaintiff in such proceeding, a certificate under the hand of the President or Speaker of the said Legislative Council or Assembly, or of the Clerk of the said Council or Assembly, stating that the report, paper, votes or proceedings, as the case may be, in respect whereof such civil or criminal proceedings shall have been commenced or prosecuted was published by such person or persons, or by his or their servants, by order or under the authority of the said Council or Assembly, or a committee thereof, together with an affidavit verifying such certificate, and such court or judge shall thereupon immediately stay such civil or criminal proceeding, and the same and every writ or process issued therein shall be and shall be deemed and taken to be finally put an end to, determined, and superseded by virtue of this Act.

Verification of copies of published reports, &c., to be a bar to any proceedings.

17. In case of any civil or criminal process to be commenced or prosecuted for or on account or in respect of the lawful publication of any copy of such report, paper, votes or proceedings, it shall be lawful for the defendant or defendants, at any stage of the proceedings, to lay before the court or judge such report, paper, votes or proceedings, and such copy, with an affidavit verifying such report, paper, votes or proceedings, and the correctness of such copy, and the court or judge shall immediately stay such civil or criminal proceedings, and the same and every writ of process issued therein shall be and shall be deemed and taken to be finally put an end to, determined, and superseded by virtue of this Act.

Publication of proceedings, &c., without malice.

18. It shall be lawful in any civil or criminal process to be commenced or prosecuted for printing any extract from or abstract of such report, paper, votes or proceedings to give in evidence under

(A) This and the three succeeding sections are a reflection of provisions of 3 & 4 Vic. c. 9. The "mischief" for

which that Act was the remedy will be found in the cases cited in note to the recital of this Act, supra.

the general issue such report, paper, votes or proceedings, and to show that such extract or abstract was published "bona fide" and without malice, and if such shall be the opinion of the jury a verdict shall be entered for the defendant or defendants. Act 27, 1895.

19. In case of any civil or criminal process hereafter to be commenced or prosecuted for or on account or in respect of any matter of privilege, it shall be lawful for the defendant or defendants, at any stage of the proceedings, to lay before the court or judge a certificate under the hand of the President or Speaker, as the case may be, stating that the matter in question is one which concerns the privilege of Parliament, and the court or judge shall immediately stay such civil or criminal process; and the same and every writ or process issued therein shall be and shall be deemed to be finally put an end to and superseded by virtue of this Act. Stay of process in respect of matters of privilege.

20. For the purposes of this Act, the person who shall fill the office of Speaker of the Legislative Assembly at the time of any dissolution of Parliament shall be deemed to be the Speaker, until a Speaker shall be chosen by the New Parliament. Speaker.

21. Save as is otherwise expressly provided by this Act, the Legislative Council and Legislative Assembly of Natal respectively, and the Committees and members thereof respectively shall hold, enjoy, and exercise such and the like privileges, immunities, and powers as, at the time of the passing of the Constitution Act of 1893 were held, enjoyed, and exercised by the Commons House of Parliament of Great Britain and Ireland and by the Committees and members thereof, whether such privileges, immunities, or powers were so held, possessed, or enjoyed by custom, statute, or otherwise: Provided, that no such privileges, immunities, or powers shall exceed those held and exercised by the Commons House of Parliament, or the members thereof, at the time of the passing of the said Constitution Act. Privileges to same as those of House of Commons in 1893.

22. This Act may be cited as the "Privileges of Parliament Act of 1895." Short title.

III. EXPENSES OF MEMBERS.

Law No. 19, 1887.

"To make Provision for Daily Travelling Allowance to certain Members of the Legislative Council."

[11th February, 1887.]

WHEREAS it is expedient to repeal Law No. 17, of 1869:

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

1. The Law No. 17, of 1869, shall be, and the same is hereby repealed. Repeal.

2. Each member of the Legislative Council, except the Speaker and the official members, and members whose ordinary residence shall be situated at a less distance than three miles from the Building in which the said Council shall assemble, shall be entitled to receive from the Public Revenue of Natal, the sum of Fifteen Shillings (A) as a daily travelling allowance. Travelling allowance to certain members.

(A) Altered to "one pound sterling" by Law 2, 1888, post.

Law 19, 1887.
Time in respect
of which allow-
ance payable.

3. Travelling allowance shall be paid in respect of each day during which the Council may be in session, and for each day employed by any member in travelling from or to his residence before and after the session.

Temporary
continuation of
certain pro-
visions of Law
17, 1869.

4. With respect to the provisions of Clause No. 2, it is hereby provided that the provisions of Law No. 17 of 1869, in this regard shall continue to be in force until the 1st day of March, 1887, and no longer.

Commencement

5. This Law shall take effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE," and shall be applicable to the present session of the said Council: Provided that Clause 2 of this Law shall not come into operation until after the first day of March, 1887 (A).

Law No. 2, 1888.

"To amend the Second Section of Law No. 19, 1887, entitled Law 'To make provision for daily travelling allowance to certain members of the Legislative Council.'"

[11th April, 1888.]

WHEREAS it is expedient to amend Section 2 of the Law No. 19, 1887:

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

Amendment of
sec. 2, Law 19,
1887.

1. The words "Fifteen Shillings" occurring in the 2nd Section of the Law No. 19, 1887, shall be, and the same are hereby, expunged, and there shall be substituted in lieu thereof the words "One Pound Sterling."

Commencement

2. This Law shall commence and take effect from and after the First day of January, 1888.

IV. OFFICERS (B).

Law No. 18, 1867.

"To provide for the performance of certain duties of the Speaker of the Legislative Council during his temporary absence from the Legislative Council."

[4th October, 1867.]

WHEREAS the Legislative Council have provided by their Standing Orders for the temporary performance by a Deputy Speaker, during the absence of the Speaker, of all acts required to be done by the Speaker: And whereas certain matters concerning the office of Speaker are regulated by the Charter and said Standing Orders of the Council, and the validity of acts done or proceedings taken during the absence of the Speaker may be questioned:

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

(A) March 1, 1887.

(B) See Law 14, 1893, ante, subdivision I.

1. If at any time during the Session of the Legislative Council the Speaker shall be temporarily absent from the House, and a Deputy Speaker shall thereupon perform the duties and exercise the authority of Speaker, pursuant to the Standing Orders or other Order or Resolution of the Legislative Council, every act done and proceeding taken in or by the Legislative Council, pursuant to the Charter of Natal, or any Ordinance or Law, or to the Standing Orders, shall be as valid and effectual as if the Speaker himself were in the Chair; and every act done, Bill, Law, Order, Minute, Certificate, Notice, or other document requiring the signature of the Speaker, signed, issued, or published in relation to any proceedings of the Legislative Council, by such Deputy Speaker shall have the same validity as if the same had been done, issued, signed, or published by the Speaker for the time being.

Law 18, 1867.
If Speaker temporarily absent, acts done by Legislative Council, and Deputy Speaker, to be valid.

2. Every such act done and proceeding taken in or by the Legislative Council during the present Session thereof shall be, and is hereby declared to be as valid and effectual as if the Speaker himself had been in the Chair; and every such act done, Bill, Law, Order, Minute, Certificate, Notice, or other document signed, issued, or published in relation to any proceedings of the Legislative Council by the Deputy Speaker during the present Session, shall have the same validity as if the same had been done, issued, signed, or published by the Speaker.

Such Act done during current session to be valid.

3. This Law shall commence and take effect from and after the publication thereof in the "GOVERNMENT GAZETTE" (A).

Commencement

Law No. 1, 1870.

"For the support of the office of Speaker of the Legislative Council of Natal, and for rendering the office more permanent, in accordance with the custom, usage, and law of Great Britain and Ireland therein provided, and for providing for the appointment of other officers attached to the said Council."

[10th March, 1870.]

WHEREAS it is desirable to make provision for the office of Speaker of the Legislative Council for the time being; and whereas Her Majesty's Charter, dated the 18th day of July, 1856, fails to provide for the office of Speaker from the dissolution of one Council until the convocation of the succeeding Council; and whereas it is desirable also to make provision for the appointment of other officers attached to the said Council:—

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

1. That the salary attached to the office of Speaker for his services for presiding over the deliberations and conducting the business of the Legislative Council (B) in each year shall be payable rateably on the first day of every month until the death or resignation of any such Speaker, or election of any new Speaker, and the receipt of the Speaker for the time being shall be sufficient discharge to the officer appointed to make at the Treasury any such payments.

Speaker's salary.

2. Provided always and be it further enacted, that in case of any dissolution of the Legislative Council, the Speaker at the time of

On dissolution, Speaker to hold office till next Council.

(A) Oct. 9, 1867.

(B) The word "Assembly" is substi-

tuted for "Council" in this and the following secs. by Law 14, 1893, s. 41, ante.

Law 1, 1870. such dissolution shall be and be deemed to be Speaker until the next succeeding Legislative Council shall meet.

Appointment of officers.

3. It shall be lawful for the Speaker, on the vote or resolution of the Legislative Council, to appoint, subject to the approval of the Lieutenant Governor, the officers required to carry on the business of the Council: Provided always it shall be lawful for the Speaker to discharge said officers so appointed on sufficient cause to him appearing; and to order all printing voted by the Council, the stationery, and other requisites necessary for the convenience of the House; and the certificate of the Speaker shall be required to authenticate the correctness of the accounts of all expenses incurred under the above heads.

Power of dismissal of officers.

Commencement

4. And be it further enacted, that this Law shall commence and take effect from the promulgation thereof in the "GOVERNMENT GAZETTE" (A).

Act No. 27, 1896.

"To Regulate the Salaries of the Chief Clerks of the Legislative Council and the Legislative Assembly."

[6th July, 1896.]

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:—

Scale of salary.

1. The Governor of this Colony is hereby authorised to pay or cause to be paid from and out of the General Revenue of this Colony to the Chief Clerks for the time being of the Legislative Council and Legislative Assembly respectively, salaries at and after the following rate, that is to say, on a scale rising from £400 per annum by annual increments of £25, to £600 per annum, the first of such increments to be payable after the completion by the officer of three years' service as such Chief Clerk.

Commencement of maximum salary, and of increment of salary of present Chief Clerks.

2. The present Chief Clerk of the Legislative Assembly, shall be deemed to have become entitled to the maximum salary provided for by this Act on the 1st November, 1894, and the present Chief Clerk of the Legislative Council shall be deemed entitled to the first increment provided for by this Act reckoned from the first day of July, 1896.

PARTNERSHIP.

[There is, at present, no Statute in this Colony codifying the law of general partnership, as in England (53 and 54 Vic. c. 39), but reference may be made to Law 47, 1887, tit. "INSOLVENCY" for the law of partnership on that subject, also to the tit. "PARTNERSHIPS (LIMITED)."]

(A) March 15, 1870.

PARTNERSHIPS (LIMITED).

Law No. 1, 1865 (A).

“ To limit the Liability of the Members of certain Partnerships.”

[22nd April, 1865.]

WHEREAS it is expedient to limit, in certain cases and under certain conditions, the liability of the members of certain Partnerships, formed for the purpose of carrying on trade or business in this Colony :

BE IT ENACTED, by the Lieutenant Governor of the Colony of Natal, with the advice and consent of the Legislative Council thereof, as follows :—

1. Partnerships being Joint Stock Companies or being formed for the purpose of banking shall not come within the meaning of this Law.

Partnerships not within this Law.

2. Limited partnerships for the transaction of any mercantile, mechanical or manufacturing business, or for agricultural or pastoral farming, except as hereinbefore excepted, may be formed within this Colony, upon the terms and subject to the conditions and liabilities hereinafter mentioned.

What partnerships come within this Law

3. The said partnerships may consist of one or more persons who shall be called general partners, and shall be jointly and severally responsible as partners now are by law, and who only shall be authorised to transact business and sign for the partnership, and to bind the same; and of one or more persons who shall contribute to the common stock a specific sum in actual cash payment, or who shall agree to make himself or themselves liable for a certain sum at any time he may be called upon for such sum, and who shall be called special partners, and who shall not be personally liable for any debts of the partnership, except in the cases hereinafter mentioned, beyond the amount so paid in by them or for which they have made themselves liable: Provided, however, that nothing in this Law contained shall be deemed or taken to make a special partner liable for any debts contracted by the general partners previous to the formation and registration of such limited partnership.

General partners and special partners, their liability defined.

4. Any persons forming such partnership shall make and severally sign a certificate, which shall contain the name or firm under which the said partnership is to be conducted, the names and residences of all the general and special partners, distinguishing who are general and who are special partners, the amount of capital which each special partner has paid in to the common stock, and for which he has made himself liable, as the case may be, the general nature of the business to be transacted, the time when the partnership is to commence and the time when the partnership is to terminate.

A certificate to be signed containing certain particulars.

5. No such partnership shall be deemed to have been formed until a certificate containing the particulars as aforesaid shall be acknowledged by all the partners before a Justice of the Peace, and registered in the office of the Registrar of Deeds of the Colony, in a book to be kept for that purpose, open to public inspection; and if the partnership shall have places of business situated in different divisions of the Colony, and there shall exist any office for the registration of transfers, debts, or other deeds in such divisions or

Partnership not to be deemed formed until certificate acknowledged before a J.P., and registered in the office of the Registrar of Deeds.

(A) See the scope and purpose of this Law discussed in *Chapman v. Gersigny*, N.L.R. 1882, p. 12.

Law 1, 1865.

Liability of persons interested in partnership for false statement in declaration.

A similar certificate to be made, acknowledged, and registered, on every renewal of partnership.

Names of General Partners only to be used in the firm.

Name of person retiring from the management may be retained in the firm.

Such withdrawal to be registered in office of Registrar of Deeds, and advertised in *Gazette*.

Suits to be prosecuted by and against the General Partners only. Exceptions.

Such partnerships not dissolved by agreement before the expiration of time specified in the certificate, unless notice thereof be registered, and published in *Gazette*, and local newspaper.

any of them, then a copy of the aforesaid certificate, certified by the Registrar of Deeds of the Colony, shall be filed and registered in like manner in such deeds registry office in every such division; and if any false statement shall be made in any such declaration, all the persons interested in the partnership shall be liable, as general partners are under this Law, for all the engagements thereof.

6. Upon every renewal, or continuation of any such limited partnership beyond the time originally agreed upon for its duration, a certificate thereof shall be made, acknowledged, and registered in like manner as is hereinbefore provided for the original formation of limited partnerships, and in every such partnership which may be renewed and continued, but not renewed and continued in conformity with the provisions of this Law, all the partners shall be deemed and taken to be general partners, and liable, as general partners under this Law are, for all the engagements of the partnership.

7. In all limited partnerships, the business of the partnership shall be conducted under a firm in which the names of none but general partners shall be inserted, without the addition of the word "Company" or any other general term; and if the name of any special partner shall be used in such firm with his consent or privity, he shall be deemed and treated as a general partner: Provided nevertheless that any person retiring from the management and conduct of any mercantile, mechanical, or manufacturing business, or agricultural or pastoral farming which he may have established, not being specially excepted herein, may still continue a special partner therein without withdrawal of his name from the firm, and subject to the general provisions of this Law affecting special partners, shall be held to be a special partner in such business: Provided that in addition to compliance with such provisions as aforesaid he duly register in the office of the Register of Deeds, and also give public notice in the "GOVERNMENT GAZETTE" for not less than four consecutive weeks that he has withdrawn from the management and conduct of such business as aforesaid.

8. All suits respecting the business of such partnerships shall be brought and prosecuted by and against the general partners in the same manner as if there were no special partners, except in those cases in which it is provided in this Law, that the special partners shall be deemed general partners, and that special partnerships shall be deemed general partnerships; in which cases all the partners deemed general partners may join or be joined in such suits.

9. No dissolution of a limited partnership shall be held to have taken place, except by operation of law, before the time specified in the certificate in the fourth section of this Law mentioned, unless a notice of such dissolution shall be registered in the deeds registry office, in which the original certificate or the certificate of the renewal or continuation of the partnership was registered, and in every other registry office where a copy of such certificate was registered; and unless such notice shall also be published for not less than three successive weeks in the "GOVERNMENT GAZETTE," and in some newspaper or newspapers, if there should be any published in the division or divisions in which the certificate in the fourth section mentioned, or the certificate of the renewal or continuation of the partnership was registered; and if no newspaper shall, at the time of the dissolution, be published in any such division, then the notice of such dissolution shall be published for not less than three successive weeks in any newspaper published in the town or village nearest to the division or divisions in which such certificate was registered.

10. Every alteration which shall be made in the names of the partners, in the nature of the business, in the amount of capital thereof or in any other matter stated in the original certificate, shall be deemed a dissolution of the partnership; and every such partnership which shall in any manner be carried on after any such alteration shall have been made therein, shall be deemed a general partnership, except renewed as a special partnership according to the provisions of this Law.

Law 1, 1865.

Alteration of any matter contained in original certificate to be deemed a dissolution, unless made under provisions of this Law.

11. No part of the sum which any special partner shall have paid into the capital stock, and which shall be stated in the certificates hereinbefore provided to be registered in the deeds registry office or offices, shall be withdrawn by him, or paid and transferred to him in the shape of dividends, profits, or otherwise, at any time during the continuance of the partnership, but any partner may annually receive interest on the sum so contributed by him, if the payment of such interest shall not reduce the amount of such capital below the amount originally paid in; and if after the payment of such interest any profits shall remain to be divided, he may also receive his portion of such profits: Provided, however, that if it shall appear that by the payment of interest or profits to any special partner, the original capital has been reduced, the partner receiving the same shall be bound to restore the amount necessary to make good his share of capital, with interest thereon from the date when they were so withdrawn respectively.

No part of sum contributed by a Special Partner to be withdrawn by him, but interest thereon, or profits, may be paid.

12. A special partner may from time to time examine into the state and progress of the partnership concerns, and may advise as to their management, but he shall not transact any business on account of the partnership, or be employed for that purpose as agent, attorney, or otherwise; and if he shall personally enter into any transaction or make any contract respecting the concerns of the partnership with any person except general partners, he shall be deemed and treated as a general partner in relation to such transaction or contract, unless it shall be made to appear that in entering into such transaction or making such contract, he acted as a special partner only.

Rights and liabilities of Special Partners in reference to conduct of partnership concerns.

13. The general partners shall be liable to account to each other, and to the special partners, for their management of the business, as other partners now are by Law.

Liabilities of partners *inter se*.

14. In case of the insolvency of any limited partnership no special partner shall under any circumstances be allowed to claim as a creditor until all the claims of all the other creditors of the partnership shall be satisfied.

Claims of partners in insolvency of partnership.

15. This Law shall be cited for all purposes as "The Special Partnerships Limited Liability Act, 1864."

Short title.

16. This Law shall be deemed and taken to be a public Law; and shall be in force from and after the promulgation thereof in the "GOVERNMENT GAZETTE" (A).

Commencement

PASSENGER CONVEYANCE.

[See "ROADS (MAIN)."]

PASSES.

[See "CRIMINAL LAW V.;" "IMMIGRATION (INDIAN)"; "NATIVES."]

(A) April 25, 1865.

PATENTS.

PATENTS.

Law No 4, 1870.

“To provide for the granting, in this Colony of Patents for Inventions.”

[8th September, 1870.]

WHEREAS, it is expedient that the making of new and useful inventions should be encouraged by securing to their inventors, for a limited time, the exclusive enjoyment thereof:

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

Interpretation.

1. In the interpretation of this Law the term “invention” shall bear and have the same meaning as the term “invention” (A) bears and has in the Act of the Imperial Parliament, the 15th and 16th of Her Majesty, c. 83, entitled “An Act for amending the law for granting patents for inventions”; and the term “letters-patent” shall mean authorisations granted by the Lieutenant Governor, under the public seal of the Colony; and the term “proceedings in the nature of a ‘scire facias,’” shall mean and have a like signification with, or as nearly as may be, what the same term would mean if used in an Act of the Imperial Parliament.

Issue of letters patent authorised.

2. It shall be lawful for the Lieutenant Governor to make and issue, in manner hereinafter mentioned, letters-patent, granting to the true and first inventor of any invention the privilege of the sole and exclusive working, making, and enjoyment of such invention within this Colony for any term not exceeding fourteen years from the date of such letters-patent.

Rules and Regulations.

3. It shall be lawful for the Lieutenant Governor, with the advice of his Executive Council, from time to time, to make such rules and regulations, not inconsistent with the provisions hereof, as may appear to be necessary and expedient for the purposes of this Law; and all such rules and regulations shall be laid before the Legislative Council within fourteen days after the making thereof, if the Legislative Council be sitting, and if the Legislative Council be not sitting, then within fourteen days after the next meeting thereof.

Application for letters patent,

4. All applications under this Law for the grant of letters-patent shall be made as near as may be, as follows, that is to say: The applicant shall deposit in the office of the Attorney-General an instrument in writing (B), under his signature, describing the nature of his invention; and the day of the deposit of every such specification shall be recorded at the said office, and endorsed upon such specification, and a certificate thereof given to such applicant or his agent, who shall thereupon deposit and pay a fee as per schedule 8 hereunto annexed; and thereupon, subject and without prejudice to the provisions hereinafter contained, the said invention shall be protected under this Law for the term of six months next after the said deposit; and the applicant shall have, during such term, the like powers, rights, and privileges as might have been conferred upon him by letters-patent

deposit of provisional specification,

fee,

term of protection,

(A) The interpretation clause of the Imperial Act provides (sec. 55): “The expression ‘invention’ shall mean any manner of new manufacture the subject of letters patent and grant of privilege within the meaning of the Act of the

21st year of the reign of King James the First, chapter three.”

(B) Cf. 15 & 16 Vic. c. 83, s. 6; and see *In re Newall*, 27 L.J., C.P. 237, as to the object of the provisional specification under that Act.

issued under this Law, and duly sealed as of the day of the date of such deposit; and during the continuance of such powers, rights, and privileges, such invention may be used and published, without prejudice to any letters-patent to be granted for the same; and the contents of such specification shall not be inspected by any person but the Attorney-General, or such person as he may appoint in that behalf, and its contents shall not be published until after the expiration of the said six months: Provided that in case the title of the invention or the said specification be too large or insufficient, it shall be lawful for the Attorney-General, during the said term and before the grant of letters-patent, to allow or require such specification to be amended: Such amended specification shall be considered a complete specification, and shall be liable to the conditions imposed upon complete specification by this Law.

Law 4, 1870.

amendment of specification.

5. [Repealed by Act No. 2, 1895.]

6. In case of the depositing of any such specification as aforesaid in fraud of the true and first inventor, any letters-patent granted to the true and first inventor of any such invention shall not be invalidated by reason of such deposit, or of any use or publication of the invention subsequent to such deposit, and before the expiration of the said term of protection.

Deposit of specification in fraud of true inventor not to invalidate his letters patent.

7 (A). The applicant, as soon as he shall think fit after the deposit of such specification as aforesaid, and of the drawings accompanying the same (if any), may give notice in writing, at the office of the Attorney-General, of his intention to proceed with his application for letters-patent for the said invention, stating in such notice the title of the said invention, and the day on which the specification thereof was deposited at the office of the Attorney-General, and at the time of giving such notice shall produce the said certificate of deposit and receipt for the said fee or fees; and thereupon the said Attorney-General shall deliver to the applicant, or his agent, an appointment in the form contained in the second schedule to this Law, or to the like effect; and such applicant or agent shall cause the said appointment to be published once in the "GOVERNMENT GAZETTE," once in some newspaper published in the City of Pietermaritzburg, and twice in some newspaper published in the town or place at or near which the applicant uses or exercises the said invention, or (in case he does not use or exercise the same) in or near to which he resides; or if there shall be no newspaper published in such town or place, then twice in some newspaper circulating in the neighbourhood where he uses or exercises the said invention, or (in case he does not exercise or use the same) where he resides; and any person having an interest in opposing the grant of letters-patent for the said invention, shall be at liberty upon payment therefor of a fee as provided by schedule 8, to leave particulars in writing of the objections to the said application at the office of the Attorney-General within such time, not less than one month, as the Attorney-General by such appointment may direct.

Procedure after deposit of specification.

Notice to Attorney-General.

Attorney-General's appointment.

Publication thereof.

Filing objections.

8. At the time and place named in the said appointment, the applicant shall produce the newspapers containing the same, and the Attorney-General shall thereupon hear and consider the said application and all objections to the same mentioned in the said particulars, if any, and may call to his aid scientific or other person or persons, as he may think fit and the Lieutenant Governor therefor appoint, and may by writing under his hand order to be paid to such person or persons, by the said applicant or objector, some remuneration for his or their attendance, and may also in like manner order that the

Hearing of application and objections.

(A) This section only applies to complete specifications; see Act 2, 1895, s. 2, post.

Law 4, 1870.

Costs.

costs of any hearing upon any objection or otherwise in relation to the grant of such letters-patent, or the protection acquired by the applicant under this Law, shall be paid, and in and by such writing shall fix the amount of such remuneration or costs, and by or to whom the same respectively shall be paid; and every such order shall be in the form contained in the third schedule to this Law, or to the like effect, and may be made a rule of the Supreme Court; provided that the applicant, the objectors, and their respective witnesses and evidence, shall be respectively heard, examined, and considered separately and apart from, and in the absence of, the other, and his witnesses and evidence.

Order for costs.

Issue of warrant for granting of letters patent.

9. The Attorney-General, if no objections have been made, or after such hearing and consideration, as the case may be, may issue a warrant under his hand for the granting of letters-patent for the said invention, and by such warrant shall direct the insertion in such letters-patent of all such restrictions, conditions, and provisoes as he may deem usual and expedient in such grants, or necessary in pursuance of this Law, and the said warrant shall be the warrant for the making and sealing of letters-patent under this Law, according to the tenor of the said warrant; and every such warrant shall be in the form contained in the fourth schedule to this Law, or to the like effect, and for the granting thereof the applicant shall pay to the Colonial Treasurer, and produce his receipt therefor, a fee as in schedule No. 8 hereunto annexed.

A writ of *scire facias* shall lie for repeal of letters patent.

10. A writ of the Supreme Court of the nature of a writ of "scire facias" in England shall lie for the repeal of any letters-patent granted under this Law; and it shall be lawful for the Lieutenant Governor, with the advice aforesaid, to order such Attorney-General to withhold such warrant as aforesaid, or that any letters-patent for the granting whereof he has issued a warrant, shall not issue; or to order the insertion in any such letters-patent of any restrictions, conditions, and provisoes in addition to, or in substitution for, any restrictions, conditions, or provisoes which would otherwise be inserted therein under this Law; and it shall also be lawful for the Lieutenant Governor, with the advice aforesaid, to order any specification in respect of the invention described, in which no letters-patent may have been granted, to be cancelled, and thereupon the protection obtained by the deposit of such specification shall cease.

Form and condition of letters patent.

11. All letters-patent granted under this Law shall be in the form contained in the fifth schedule to this Law, or to the like effect, and be made subject to the condition that the same shall be void, and that the powers and privileges thereby granted shall cease and determine at the expiration of three years and seven years respectively from the date thereof, unless there be paid to the Colonial Treasurer within the said three and seven years respectively the sum or sums of money in that behalf hereby required to be paid, and the Colonial Treasurer shall issue under his hand a certificate of such payment, and shall endorse a receipt for the same on the letters-patent (A).

Preparation of letters patent.

12. The Attorney-General, so soon after the issue by him of the warrant aforesaid as required by the applicant, shall cause to be prepared letters-patent of the invention, according to the tenor of the said warrant; and it shall be lawful for the Lieutenant Governor, with the advice of the Executive Council, to cause letters-patent to be sealed with the public seal of the Colony, and such letters-patent shall be made applicable to the said Colony, and shall be valid and effectual as to the whole of the same; but, except as hereinafter mentioned,

(A) See proviso added by Act 2, 1895, s. 3, post.

no letters-patent shall issue on any warrant granted as aforesaid, unless application be made to seal such letters-patent within three months after the date of the said warrant, nor unless such letters-patent be granted during the continuance of the protection conferred under this Law by reason of such deposit as aforesaid.

Law 4, 1870.
Sealing same.

13. Where the application to seal such letters-patent has been made during the continuance of such protection as aforesaid, and the sealing of such letters-patent has been delayed from accident, and not from the neglect or wilful default of the applicant, then such letters-patent may be sealed at such time, not being more than one month after the expiration of such protection as the Lieutenant Governor, with the advice aforesaid, shall direct; and where the applicant for such letters-patent dies during the continuance of such protection as aforesaid such letters-patent may be granted to the executors testamentary or dative of such applicant during the continuance of such protection, or at any time within three months after the death of such applicant notwithstanding the expiration of the term of such protection; and the letters-patent so granted shall be of the like force and effect as if they had been granted to such applicant during the continuance of such protection; and in case any letters patent shall be destroyed or lost, other letters-patent of the like tenor and effect, and sealed and dated as of the same day, may, subject to such regulations as the Lieutenant Governor, with the advice aforesaid may direct, be issued under the authority of the warrant in pursuance of which the original letters-patent were issued.

Accidental
delay in sealing.

Death of
applicant.

Destruction or
loss of original
letters patent.

14. All letters-patent to be issued in pursuance of this Law shall be sealed and bear date as of the day of the deposit of any such specification as aforesaid, and shall be of the same force and validity as if they had been sealed on the day as of which the same are expressed to be sealed and bear date; and after any letters-patent shall have been granted or issued under this Law, it shall not be necessary or admissible to inquire or ascertain whether such appointment as aforesaid has or has not been delivered and published in the manner hereinbefore mentioned and directed.

Date of letters
patent.

After issue
thereof partic-
ulars of
appointment
not to be
enquired into.

15. Where, upon any application made under this Law letters-patent are granted for, or in respect of, any invention first invented in parts out of this Colony, and a patent or like privilege for the monopoly or exclusive use or exercise of such invention in any parts out of this Colony is obtained before the grant of such letters-patent in this Colony, all rights and privileges under such letters-patent shall, notwithstanding any term in such letters-patent limited, cease and be void immediately upon the expiration or other determination of the term during which the patent or like privilege obtained in such part out of such Colony shall continue in force; or where more than one such patent or like privilege is obtained abroad, immediately upon the expiration or determination of the term which shall first expire or be determined of such several patents or like privileges: Provided always, that no letters-patent for or in respect of any invention, for which any such patent or like privilege as aforesaid shall have been obtained abroad, granted in this Colony after the expiration or determination of the term for which such patent or privilege was granted or was in force, shall be of any validity.

Extension to
this Colony of
letters patent
granted else-
where.

16. No letters patent for any invention granted after the passing of this Law, shall extend to prevent the use of such invention in any foreign ship or vessel (A), or for the navigation of any foreign ship or vessel which may be in any port of Natal, in case such invention

Letters patent
not to apply to
foreign ships in
Port Natal.

(A) As to meaning of "foreign ship or vessel," see Law 5, 1871, post.

Law 4, 1870. is not so used for the manufacture of any goods or commodities to be vended within or exported from the same.

Specifications and drawings, where to be kept.

17. Every specification deposited at the office of the Attorney General as aforesaid and the drawings accompanying the same, if any, shall forthwith after the grant of the letters-patent or if no letters-patent be granted then immediately on the expiration of six months from the time of such deposit be transferred to and kept in such office as the Lieutenant Governor with the advice aforesaid shall from time to time appoint for that purpose.

Application for leave to enter disclaimer.

18. Any person who shall obtain letters-patent under this Law or in case such person shall part with the whole or any part of his interest by assignment, such person, together with the assignee (if part only hath been assigned), or the assignee alone (if the whole hath been assigned), may apply to the Attorney General for leave to enter a disclaimer of any part of either the title of the invention or of the specification, or a memorandum of any alteration in the said title or specification, not being such disclaimer or such alteration, as shall extend to the exclusive right granted by the said letters-patent; and thereupon the Attorney General shall deliver to such patentee, and assignee, or either of them, or to their, or either of their agents, an appointment in the form contained in the sixth schedule to this Law or to the like effect, and such patentee or assignee shall thereupon cause such disclaimer (stating the reason for the same), or such memorandum or alteration to be written at the foot of such appointment, and shall cause the same respectively to be published in the manner hereinbefore required with respect to the said first-mentioned appointment; and any person having an interest in opposing the said application shall be at liberty to leave particulars in writing, of their objections to the same at the office of the Attorney General, within such time not being less than one month as the said Attorney General by such appointment may direct: Provided, that where such application as aforesaid shall be for leave to enter a disclaimer of any part of the title of the said invention, or a memorandum of any alteration in such title, the Attorney General may dispense with such appointment and publication, and in that case shall certify in the fiat hereinafter mentioned that he has dispensed with the same.

Attorney-General's appointment.

Publication.

Objections.

No appointment requisite for disclaimer of part of title.

Hearing application and objections.

19. At the time and place named in such appointment, the said patentee and assignee, or one of them, shall produce the newspapers containing the same, and the said disclaimer or memorandum of alteration at the foot thereof; and the Attorney General shall thereupon hear and consider the said application, and all objections to the same mentioned in the said particulars, if any, and all such power and authority shall and may be exercised on such occasion by the Attorney-General, as by virtue of the provisions hereinbefore contained can and may be exercised in relation to the hearing and considering any application for letters-patent and objections to the same, and shall and may be enforced in the same manner.

Powers of Attorney-General.

Entry of disclaimer.

20. After such hearing and consideration, or without such hearing and consideration, where the said appointment and publication shall have been dispensed with as aforesaid, such patentee and assignee, or either of them, may, by leave of the Attorney General, to be certified by a fiat under his hand (to be written at the foot of the same parchment with the said disclaimer or memorandum), enter such disclaimer, stating the reason for the same or such memorandum of alteration; and at the time of entering such disclaimer or memorandum of alteration, shall deposit a copy thereof in the office next hereinbefore mentioned, and such disclaimer or memorandum of alteration being filed in such office as the Lieutenant Governor, with the advice aforesaid, shall from

Attorney-General's fiat.

time to time appoint for that purpose, shall be deemed and taken to be part of such letters-patent, or such specification, and subject to the several incidents thereof in all Courts of this Colony, and shall be valid and effectual in favour of any person in whom the rights under the said letters-patent may then be or hereafter become legally vested; and no objection shall be allowed to be made in any proceeding upon, or touching such letters-patent, specification, disclaimer, or memorandum of alteration, on the ground that the person entering such disclaimer or memorandum of alteration had not sufficient authority in that behalf: Provided always, that no action shall be brought upon any letters-patent in which, or on the specification of which, any disclaimer or memorandum of alteration shall have been filed in respect of any infringement committed prior to the filing of such disclaimer, or memorandum of alteration (unless the Attorney General shall certify in his said fiat that any such action may be brought), notwithstanding the entry or filing of such disclaimer or memorandum of alteration; and no such disclaimer or alteration shall be receivable as evidence in any action or suit (save and except in any proceeding as aforesaid in the nature of a "scire facias"), pending at the time when such disclaimer or alteration was filed as aforesaid, but in every such last-mentioned action or suit the original title and specification alone shall be given in evidence, and be deemed and taken to be the title and specification of the invention for which the letters-patent have been or shall have been granted: Provided also, that when any such fiat shall have been granted or issued under this Law, it shall not be necessary or material to inquire or ascertain whether such appointment as last aforesaid has or has not been delivered and published or dispensed with in accordance with this Law; and such filing of any disclaimer or memorandum of alteration, in pursuance of the leave of the Attorney-General, certified as aforesaid, shall, except in cases of fraud, be conclusive as to the right of the party to enter such disclaimer or memorandum of alteration under this Law.

Law 4, 1870.

21. The copies of all specifications, and the drawings accompanying the same, if any, and of all disclaimers and memoranda of alterations, respectively deposited under or in pursuance of this Law, shall be open to the inspection of the public at all reasonable times after the grant of letters-patent, or if no letters-patent be granted, then immediately on the expiration of six months from the time of such deposit; but subject to such regulations as the Lieutenant Governor, with the advice aforesaid, may make in that behalf.

Copies of specifications, drawings, &c., to be open to public after issue of letters patent.

22. If any person having obtained letters-patent under this Law, or in case such person shall have parted with his whole or any part of his interest by assignment, if such person, together with the assignee (where part only hath been assigned), or the assignee alone (where the whole hath been assigned), shall, six months before the expiration or other termination of such letters-patent, present to the Lieutenant Governor a petition for the extension of the term in such letters-patent mentioned, and shall set forth in such petition that he or they has or have been unable to obtain a due remuneration for his or their expense or labour in perfecting such invention, and that an exclusive right of using and vending the same for some further period, to be named in such petition, in addition to the said term, is necessary for his or their reimbursement and remuneration, it shall be lawful for the Lieutenant Governor, with the advice aforesaid, to refer the consideration of the said petition to the Supreme Court.

Extension of term of letters patent.

Petition, what it must set forth.

23. If in any suit or action it shall be proved or specially found by the verdict of a jury or by the court, that any person who shall have obtained letters-patent for any invention or supposed invention was not the first inventor thereof, or of some part thereof, by reason

Petition to Governor for confirmation or renewal of letters patent in certain cases.

Law 4, 1870. of some other person having invented, or used the same, or some part thereof, before the date of such letters-patent, or if such patentee or his assigns shall discover that some other person had, unknown to such patentee, invented or used the same or some part thereof before the date of such letters-patent, such patentee or his assigns may petition the Lieutenant Governor to confirm the said letters-patent, or to grant new letters-patent; and it shall be lawful for the Lieutenant Governor with the advice aforesaid, to refer the consideration of the said petition to the Supreme Court.

Petition to be advertised. 24. Two months at least before the time named for the consideration of any such petition as aforesaid, the petitioner shall cause to be published in the same manner as is hereinbefore required with respect to the said first-mentioned appointment, an advertisement of the contents of the said petition, in the form contained in the seventh schedule to this Law, or to the like effect; and any person having an interest in opposing the said petition shall be at liberty to enter a caveat against the same at the office of the Attorney General, at any time, not being less than one week before the time named for the consideration of the said petition.

Entering caveats. 25. The petitioner shall be heard by his counsel and witnesses to prove his case as stated in such petition, and the publication of the said last-mentioned advertisement as required by this Law; and the persons entering caveats shall likewise be heard by their counsel and witnesses; and all such witnesses shall be examined upon oath or affirmation, and thereupon, and upon hearing and inquiry of the whole matter, in case such petitioner shall have prayed for an extension as aforesaid, the said Court may report whether any, and, if any, what further extension of the said term should be granted; and the Lieutenant Governor is hereby authorised and empowered, if he, with the advice aforesaid, shall think fit to grant to the petitioner new letters-patent for the said invention, for a term not exceeding fourteen years after the expiration of the first term, anything hereinbefore contained to the contrary thereof notwithstanding; and such new letters-patent shall be sealed and bear date as of the day after the expiration of the term of the first letters-patent; or, in case such petitioner shall have prayed for a confirmation or grant as aforesaid, the Court, upon examining the said matter, and being satisfied that such patentee, as aforesaid, believed himself to be the first and original inventor, and being satisfied that such invention, or part thereof, had not been publicly and generally used before the date of such first letters-patent, shall decide whether the prayer of such petition ought to be complied with, whereupon the Lieutenant Governor may, if he, with the advice aforesaid, shall think fit, grant such prayer; and the said letters-patent shall be available at law and in equity to give such petitioner the sole right of using, making, and vending such invention, as against all persons whatsoever, anything hereinbefore contained to the contrary thereof notwithstanding: Provided that any person, party to any former action or suit touching such first letters-patent as last aforesaid, shall be entitled to have notice in writing from the petitioner or his attorney of the time and place fixed for the hearing of the said petition; and after any such decision and order shall have been made, it shall not be material to inquire or ascertain whether any such advertisement as last aforesaid has or has not been published, or whether any such notice as last aforesaid has or has not been given in the manner hereinbefore directed in that behalf. The expenses of such hearing and all costs connected therewith shall be paid as the Court may direct.

Hearing of petition. 26. The Lieutenant Governor, with the advice aforesaid, may cause indices to all specifications, disclaimers, and memoranda of alterations

Court to report to Lieutenant-Governor in case of prayer for extension, and Governor to decide thereon.

In case of prayer for confirmation or renewal, the Court shall decide thereon, whereupon the Governor may comply with petition.

Indices of specifications, &c.

heretofore, or to be hereafter enrolled or deposited as aforesaid, to be prepared in any such form as may be thought fit; and such indices shall be open to the inspection of the public at such places as the Lieutenant Governor, with the advice aforesaid, shall appoint, and subject to the regulations to be made, as hereinbefore provided. Law 4, 1870.

27. There shall be kept at the office to be appointed, as aforesaid, a book or books to be called "The Register of Patents," wherein shall be entered and recorded in chronological order all letters-patent granted under this Law, the deposit and filing of specifications, disclaimers, and memoranda of alterations filed in respect of such letters-patent, all amendments in such letters-patent and specifications, all confirmations and extensions of such letters-patent, the expiry, determination, vacating, or cancelling such letters-patent, with the dates thereof respectively, and all other matters and things affecting the validity of such letters-patent as the Lieutenant-Governor, with the advice aforesaid, may direct; and such register, or a copy thereof, shall be open at all convenient times to the inspection of the public, subject to such regulations as the Lieutenant Governor, with the advice aforesaid, may make in that behalf. The "Register of Patents" book.
Register to be open to inspection.

28. There shall be kept at the same office a book or books, entitled "The Register of Proprietors," wherein shall be entered, in such manner as the Lieutenant Governor, with the advice aforesaid, shall direct, the assignment of any letters-patent, or of any share or interest therein, any license under letters-patent, and the district to which such license relates, with the name or names of any person having any share or interest in such letters-patent or license, the date of his or their acquiring such letters-patent, share, and interest, and any other matter or thing relating to, or affecting the proprietorship in such letters-patent or license; and a copy of any entry in such book, certified as hereinafter mentioned, shall be given to any person requiring the same on payment of the fee provided in schedule 8, and shall be "prima facie" proof of the assignment of such letters-patent, or share, or interest therein, or of the license or proprietorship as therein expressed: Provided always, that until such entry shall have been made, the grantee or grantees of the letters-patent shall be deemed and taken to be the sole and exclusive proprietor or proprietors of such letters-patent, and of all the licenses and privileges thereby given and granted, and such register, or a copy, shall be open to public inspection, subject to such regulations as the Lieutenant Governor, with the advice aforesaid, may make. "Register of Proprietors."
Register to be open to inspection.

29. If any person shall wilfully make, or cause to be made, any false entry in the said register, or shall wilfully make or forge, or cause to be made or forged, any writing, falsely purporting to be a copy of any entry in the said book, or shall produce or tender, or cause or suffer to be produced or tendered, in evidence, any such writing, knowing the same to be false or forged, he shall be guilty of the crime of contravening this section of this Law, and shall upon conviction be liable to imprisonment, with or without hard labour, for any period not exceeding five years. Punishment for making false entries in the register, or forging entries therefrom.

30. If any person shall deem himself aggrieved by any entry made under colour of this Law in the said register, it shall be lawful for such person to apply by motion to the Supreme Court for an order that such entry may be expunged, vacated, or varied; and upon any such application, such court may make such order for expunging, vacating, or varying such entry, and as to the costs of such application as to such court may seem fit; and the officer having the care and custody of such register, on the production to him of any such order, shall expunge, vacate, or vary the said entry according to such order. Entries in such register—how expunged, vacated, or varied.

Law 4, 1870.

Imitating a patentee's marks or device.

31. If any person shall write, paint, print, mould, cast, carve, engrave, stamp, or otherwise mark, upon anything made, used, or sold by him, for the sole making or selling of which he hath not, or shall not, have obtained letters-patent, the name or any imitation of the name of any other person who hath or shall have obtained letters-patent for the sole making or vending of such thing, without leave in writing of such patentee or his heirs or assigns; or if any person shall, upon such thing not having been purchased from the patentee or some person who purchased it from or under such patentee, or not having had the license or consent in writing of such patentee or his assigns, write, paint, print, mould, cast, carve, engrave, stamp, or otherwise mark, the word "patent," the words "letters-patent," or the words "by the Queen's patent," or any words of the like kind, meaning, or import, with a view of imitating or counterfeiting the stamp, mark, or other device of the patentee, he shall for every such offence, forfeit and pay the sum of fifty pounds, one half to the Colonial Government, and the other half, with full costs of suit, to any person who shall sue for the said penalty by action of debt.

Penalty.

Inventor's action for infringement of patent.

32. An action may be maintained in the Supreme Court by an inventor against any person who, during the continuance of the letters-patent granted under this Law, shall, without the license of said inventor, make, use, sell, or put in practice the said invention, or who shall counterfeit or imitate the same.

Grounds of defence to any such action.

33. No such action shall be defended upon the ground of any defect or insufficiency of the specification of the invention, nor shall any such action be defended upon the ground of a mis-description of the invention in the petition; nor upon the ground that the plaintiff was not the inventor, unless the defendant shall show that he is the actual inventor or derives title from him: Any such action may be defended upon the ground that the invention was not new, if the person making the defence, or some person through whom he claims, shall, before the date of the petition for leave to file any such specification, have publicly or actually used in Natal the invention, or that part of it, of which the infringement shall be proved, but not otherwise.

Court may, in certain cases, allow amendment of specification.

34. If the Court, at the hearing of the cause, shall think that the patentee has in the description of his invention in the petition or specifications included something which at the date of the petition was not new, or whereof he was not the inventor, or that the complete specification is in any particular defective or insufficient, but that the error, defect, or insufficiency, was not fraudulently intended, the Court may adjudge the said exclusive privilege to have been acquired, and the letters-patent to be valid, save as to the part thereof affected by such error, defect, or insufficiency; or if the Court shall think that the error, defect, or insufficiency can be amended, without injury to the public, they may adjudge the exclusive privilege, and letters-patent on the whole of the invention to be valid, and may, upon such terms as shall appear reasonable, order the specification to be amended in any of the said particulars, and adjudge and make such further order as to costs or otherwise as may be necessary and expedient, and thereupon the patentee, his executors, administrators, or assigns, shall, within the time limited by said Court for the purpose, file a specification amended according to such order.

In actions for infringement of patent, particulars to be delivered, and no evidence allowed not mentioned therein.

35. In any action for the infringement of letters-patent, the plaintiff shall deliver with his declaration particulars of the breaches complained of in the said action, and the defendant, on pleading thereto, shall deliver with his pleas, and the prosecutor in any proceedings in the nature of "scire facias" to repeal letters-patent, shall deliver with

his declaration, particulars of any objections on which he means to rely at the trial in support of the pleas in the said action, or of the suggestions of the said declaration respectively; and at the trial of such action or proceedings, no evidence shall be allowed to be given in support of any alleged infringement, or of any objection impeaching the validity of such letters-patent, which shall not be contained in the particulars delivered as aforesaid: Provided always that the place or places at, or in which, and in what manner, the invention is alleged to have been used or published prior to the date of the letters-patent, shall be stated in such particulars: Provided also, that it shall and may be lawful for any judge at chambers to allow such plaintiff or defendant, or prosecutor respectively, to amend the particulars delivered as aforesaid, upon such terms as to such judge may seem fit: Provided also, that at the trial of any proceeding to repeal letters-patent, the defendant shall be entitled to begin and give evidence in support of such letters-patent; and in case evidence shall be adduced on the part of the prosecutor, impeaching the validity of such letters-patent, the defendant shall be entitled to the reply (A).

36. In taxing the costs in any action for infringing letters-patent, regard shall be had to the particulars delivered in such action; and the plaintiff and defendant respectively shall not be allowed any costs in respect of any particular, unless certified by the court before which the trial was had, to have been proved by such plaintiff or defendant respectively; and it shall be lawful for the court, before which any such action shall be tried, to certify on the record that the validity of the letters-patent in the declaration mentioned came in question, and the record with such certificate being given in evidence in any suit or action for infringing the said letters-patent, or in any proceeding in the nature of a "scire facias," to repeal the letters-patent, shall entitle the plaintiff in any such suit or action, or the defendant in any such proceeding, on obtaining a decree or judgment, to his full costs, charges, and expenses to be taxed as between attorney and client, unless the court making such judgment, decree, or order, shall certify that the plaintiff or defendant respectively ought not to have such full costs (B).

37. There shall be paid, in respect of letters-patent applied for or issued as herein mentioned, the depositing of specifications, disclaimers, and memoranda of alterations, warrants, certificates, entries, searches, and other matters and things respectively mentioned in the eighth schedule to this Law, such fees as are enumerated in such schedule; and such of the said fees as are thereby made payable shall be payable to the persons and in the manner provided in such schedule, and shall form part of the Colonial revenue.

38. All letters-patent which shall be granted in the United Kingdom of Great Britain and Ireland, after the first day of January, in the year of Our Lord One Thousand Eight Hundred and Seventy-one, for any invention, shall, so far as the same relate to this Colony, be

Law 4, 1870.

Particulars to be regarded in taxation of costs.

Payment of fees specified in schedule.

Letters Patent granted in Great Britain after 1st January, 1871.

(A) Cf. sec. 41 of 15 & 16 Vic. c. 83. Where a defendant relies on a general user, it is sufficient to state, in his particulars of objection, that the invention was used by manufacturers generally at a particular place, without naming any person or specifying any manufactory (*Palmer v. Wagstaffe*, 8 Exch. 840). If the particulars delivered with the pleas are too general, the party who means to object to them must procure an order for better particulars (*Hull v. Bollard*,

15 L.J. Exch. 304). See also *Chollett v. Hoffman*, 26 L.J., Q.B. 249, and *Talbot v. La Roche*, 15 C.B. 310.

(B) Under similar provisions in sec. 43 of 15 & 16 Vic. c. 83, it was held that where the Court considers the plaintiff entitled to full costs as between solicitor and client, the decree or order should contain an express direction that the costs be so taxed, notwithstanding the section (*Lister v. Leather*, 4 Kay & J. 425).

Law 4, 1870. utterly void and of none effect, and in no wise be put in execution; but all such letters-patent granted in the said United Kingdom on or before that day, and which, if this Law had not been passed, would have been valid in this Colony, shall be deemed and taken to have been granted under this Law, and may be dealt with accordingly (A).

Commencement 39. This Law shall take effect from the promulgation thereof in the "GOVERNMENT GAZETTE" (B).

SCHEDULE I.

Schedules.

To all to whom these presents shall come, I, _____ of _____ [engineer, &c., as the case may be], send greeting: Whereas I am desirous of obtaining letters-patent for securing unto me Her Majesty's special license that I, my executors and assigns, and such others as I or they should at any time agree with, and no others, should and lawfully might, from time to time, and at all times during the term of fourteen years (to be computed from the day on which this instrument shall be left at the office of the Attorney General), make, use, exercise, and vend, within the Colony of Natal, an invention for [insert the title of the invention]; and in order to obtain the said letters-patent, I must, by an instrument in writing under my hand, particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed, and must also enter into the covenant hereinafter contained: Now know ye, that the nature of the said invention, and the manner in which the same is to be performed, are particularly described and ascertained in and by the following statement, that is to say [describe the invention]. And I do hereby, for myself, my heirs and executors, covenant with Her Majesty, her heirs and successors, that I believe the said invention to be a new invention as to the public use and exercise thereof, and that I do not know or believe that any person other than myself is the true and first inventor of the said invention, and that I will not deposit these presents at the office of the Attorney General with any such knowledge or belief as last aforesaid. In witness whereof I have hereunto set my hand at _____, this _____ day of _____ 18 _____.

SCHEDULE II.

Patent for [insert the title as in the specification.]

This is to notify that _____, of &c., did on the _____ day of _____ instant [or last] deposit at the office of the Attorney General, Pietermaritzburg, a specification or instrument in writing under his hand, particularly describing and ascertaining the nature of the said invention, and in what manner the same is to be performed, and that by reason of such deposit the said invention is protected and secured to him exclusively for the term of six months thence next ensuing. And I do further notify that the said _____ has given notice in writing, at my office, of his intention to proceed with his application for letters-patent for the said invention, and that I have appointed [Thursday] the _____ day of _____ next, at _____ o'clock in the _____ noon, at my office to hear and consider the said application and all objections thereto; and I do hereby require all persons having an interest in opposing the grant of such letters-patent to leave before that day, at my office in Pietermaritzburg, particulars

(A) This section is expressed to be Law is not yet in force.
repealed by Law 32, 1884, post, but that (B) Sept. 20, 1870.

Law 4, 1870.
Schedules.

herein expressed, shall and lawfully may make use of, exercise, and vend his said invention within Our said Colony, in such manner as to him, his executors and assigns, or any of them, shall seem meet; and that he, his executors and assigns, shall and lawfully may have and enjoy the whole profit, benefit, commodity and advantage, from time to time coming, growing, accruing, and arising by reason of the said invention, during the said term; to have, hold, exercise, and enjoy the said licenses, powers, privileges, and advantages unto and by the said _____, his executors and assigns, for and during, and until the full end and term of _____ years, now next ensuing. And to the end that he, his executors and assigns, and every of them, may have and enjoy the full benefit and the sole use and exercise of the said invention, according to Our gracious intention, We do by these presents, for Us, Our heirs and successors, require and strictly command all and every person and persons whatsoever, of what estate, quality, degree, name, or condition soever they be, within Our said Colony, that neither they, nor any of them, at any time during the said term, either directly or indirectly, do make, use, or put in practice the said invention, or any part of the same, so attained unto by the said _____ as aforesaid, nor in anywise counterfeit, imitate, or resemble the same, nor shall make or cause to be made any addition thereunto, or subtraction from the same, whereby to pretend himself or themselves the inventor or inventors, deviser or devisors thereof, without the consent, license, or agreement of the said _____, his executors or assigns, in writing under his or their hands first had and obtained in that behalf, upon such pains and penalties as can or may be justly inflicted on such offenders for their contempt of this Our royal command; and further, to be answerable to the said _____, his executors and assigns, according to law, for his and their damage thereby occasioned; Provided always, and these Our letters-patent are and shall be upon this condition, that if at any time during the said term hereby granted, it shall appear that this Our grant is contrary to law, or prejudicial or inconvenient to Our subjects in general, or that the said invention is not a new invention as to the public use and exercise thereof, or that the said _____ is not the first and true inventor thereof within this Colony, these Our letters-patent shall forthwith cease, determine, and be utterly void to all intents and purposes, anything hereinbefore contained to the contrary thereof in anywise notwithstanding; Provided also that these Our letters-patent, or anything herein contained, shall not extend, or be construed to extend, to give privilege unto the said _____, his executors and assigns, or any of them, to use or imitate any invention or work whatsoever which hath heretofore been found out or invented by any other of Our subjects whatsoever, and publicly used or exercised, unto whom Our like letters-patent or privileges have been already granted, for the sole use and exercise and benefit thereof, within Our said Colony; it being Our will and pleasure that the said _____, his executors and assigns, and all and every person and persons to whom like letters-patent or privileges have been already granted as aforesaid, shall distinctly use and practise their several inventions by them invented and found out, according to the true intent and meaning of the same respecting letters-patent, and of these presents; provided likewise, nevertheless, and these Our letters-patent are upon this express condition, that if the said instrument in writing does not particularly describe and ascertain the nature of the said invention, and in what manner the same is to be performed, and, also, if the said _____, his executors or assigns, shall not pay at the

office of the Colonial Treasurer of Our said Colony the sum of _____ pounds within three years next after the date of these presents, and the sum of _____ pounds within seven years next after such date, then, and in any of the said cases, these Our letters-patent, and all liberties and advantages whatsoever hereby granted, shall utterly cease, determine, and become void, anything hereinbefore contained to the contrary thereof in anywise notwithstanding: Provided that nothing herein contained shall prevent the granting of licenses in such manner and for such considerations as may by law be granted: And, lastly, We do by these presents, for Us, Our heirs and successors, grant unto the said _____, his executors and assigns, that these Our letters-patent shall be in and by all things good, firm, valid, sufficient and effectual in the law, according to the true intent and meaning thereof, and shall be taken, construed, and adjudged in the most favourable and beneficial sense for the best advantage of the said _____, his executors and assigns.

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Schedules.

In witness whereof We have caused these Our letters to be made patent, and to be sealed and bear date as of the day of _____ 18__

SCHEDULE VI.

Patent for [here insert the title.]

This is to notify to all whom it may concern, that _____ of, &c., has applied to me for leave to enter a disclaimer of part [or memorandum of alteration, as the case may be] of the said invention, the particulars whereof are stated below; I do therefore appoint [Thursday] the _____ day of _____ next, at _____ o'clock in the _____ noon, to hear, and consider the said application and all objections to the same. And I do hereby require all persons having an interest in opposing the said application to leave, before that day, at my office, in Pietermaritzburg, particulars in writing of their objection to the same, otherwise they will be precluded from urging such objections.

Given under my hand, this _____ day of _____ 18__
Attorney General.

The following is the disclaimer [or as the case may be] which I desire to make in, &c. [The applicant must here set forth what he wishes to enter, and sign it.]

SCHEDULE VII.

Patent for [insert the title.]

Notice is hereby given, that I have presented a petition to His Excellency the Lieutenant Governor, praying for the confirmation of [or extension of the term in] the said patent, and that the said petition has been referred to the Supreme Court for consideration and decision; and that on _____ the _____ day of _____ next, at _____ o'clock in the _____ noon, or so soon thereafter as counsel can be heard, the said Court will be moved thereon. All persons objecting to the said confirmation [or extension] must enter a caveat against the same at the office of the Attorney General, in Pietermaritzburg, otherwise they will be precluded from objecting to it.

Dated this _____ day of _____ 18__

Law 4, 1870.

SCHEDULE VIII.

Schedules.

Fees to be paid to Treasurer on account of General Revenue.

	£	s.	d.
On depositing provisional specification	1	1	0
Notice to proceed	0	5	0
Alteration of specification	0	10	6
For any appointment	1	1	0
Fee for warrant (in terms of clause 9)	1	1	0
Complete specification	1	1	0
Particulars of objection	1	1	0
On presenting petition for extension of confirmation ...	1	1	0
Every search and inspection	0	1	0
Entry of assignment or license	0	5	0
Certificate of assignment or license	0	5	0
Filing memorandum of alteration or disclaimer	1	1	0
Entering caveat... ..	1	1	0
Copy, or extract of any writing, per Common Law folio ...	0	1	0
Sealing letters-patent	1	10	0
At or before the expiration of three years	5	0	0
At or before the expiration of seven years (A)	10	0	0
	1	2	0

Law No. 5, 1871.

"To amend and extend the provisions of the 16th Section of Law No. 4, 1870, entitled Law To provide for the granting in this Colony of Patents for Inventions."

[28th November, 1871.]

WHEREAS doubts have arisen as to the meaning of the terms "foreign ship or vessel," occurring in the sixteenth section of the said Law No. 4, 1870, and it is expedient to remove such doubts and to amend the said section by defining and extending the meaning of the said terms for the purposes of said section:

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

1. In the said recited sixteenth section of Law No. 4, 1870, and for the purposes of said section, the terms "foreign ship or vessel" shall be taken, and are hereby declared to mean, comprehend, and include all ships and vessels used in navigation not propelled by oars, not being registered in or hailing from this Colony.

2. This Law shall take effect from the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (B)

Definition of terms, in Law 4, 1870, sec. 16

Commencement

Law No. 32, 1884.

"To Amend the Patent Law, No. 4, 1870."

[8th November, 1884.]

WHEREAS it is expedient to make provision for the mutual protection of inventions for which Letters Patent have been granted either in the United Kingdom of Great Britain and Ireland or in this Colony, and for that purpose it is necessary to repeal Section 38

(A) See Act 2, 1895, s. 4, post, adding time, £2 2s.
the following item:—"Enlargement of (A) Dec. 5, 1871.

of Law 4, 1870, entitled "Law to provide for the granting in this Colony of Patents for Inventions" Law 32, 1884.

AND WHEREAS it is enacted by Section 104 of the "Patents, Designs, and Trade Marks Act, 1883," the 46 and 47 Vic., cap. 57, that where it shall be made to appear to Her Majesty that the Legislature of any British possession has made satisfactory provision for the protection of inventions, designs, and trade marks, patented or registered in the United Kingdom of Great Britain and Ireland, it shall be lawful for Her Majesty from time to time, by order in Council, to apply, with such variations or additions, if any, as to Her Majesty in Council may seem fit, the provisions of Section 103 of the "Patents, Designs, and Trade Marks Act, 1883," aforesaid, to any such British possession:

AND WHEREAS the said Section 103 of the "Patents, Designs, and Trade Marks Act, 1883," provides, "mutatis mutandis," that if Her Majesty is pleased to make any arrangement with the Government of any British possession for mutual protection of inventions, designs, and trade marks, or any of them, then any person who has applied for protection for any invention, design, or trade mark in any such British possession shall be entitled to a patent for his invention or to registration of his design or trade mark (as the case may be) under the said Act, in priority to other applicants; and such patent or registration shall have the same date as the date of the protection obtained in such British possession:

BE IT THEREFORE ENACTED by the Governor of Natal, with the advice and consent of the Legislative Council hereof, as follows:—

1. The Thirty-Eighth Section of Law No. 4, 1870, shall be and the same is hereby repealed; and it is hereby further enacted that from and after the date of the promulgation in this Colony of the Order in Council referred to in Section 104 of the "Patents, Designs, and Trade Marks Act, 1883," all Letters Patent granted in the United Kingdom of Great Britain and Ireland shall be deemed and taken to be granted under the provisions of Law No. 4, 1870, and may be dealt with accordingly: Provided that this Law shall only apply to patents granted for inventions in the said United Kingdom, and not to designs or trade marks.

Repeal of sec. 38, Law 4, 1870. Letters patent granted under 46 & 47 Vict., cap. 57, to be deemed granted under Law 4, 1870, after promulgation of Order in Council.

This Law not to apply to designs or trade marks.

Commencement

2. This Law shall come into operation from and after the date of the promulgation in the "NATAL GOVERNMENT GAZETTE" of the order in Council referred to in Section 1 hereof and shall be read and construed together with Law 4, 1870, as one Law (A).

Act No. 2, 1895

"To Amend the Patent Law, No. 4, 1870."

[1st July, 1895.]

WHEREAS it is expedient to amend the Patent Law, No. 4, 1870, already amended in certain respects by the Laws No. 5, 1871, and No. 32, 1884:

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:—

1. Section 5 of said Law No. 4, 1870, shall be, and the same is hereby, repealed, and the following substituted in lieu thereof:—

Repeal of sec. 6, Law 4, 1870.

(A) No Order in Council having been promulgated, this Law is not in force.

Act 2, 1895.
Deposit of
complete
specification.

The applicant for an invention, instead of depositing a "provisional specification" as aforesaid, may, if he think fit, but must in any case before giving notice of his intention to proceed with his application for Letters Patent for the said invention, deposit an instrument in writing, under his hand and seal, in the form contained in the first Schedule to this Law, or to the like effect (hereinafter called a complete specification), particularly describing and ascertaining the nature of the said invention, in what manner the same is to be performed, and also such drawings as may be required to explain the same; and the day of the deposit of every such specification shall be recorded at the aforesaid office, and endorsed upon such specification, and a certificate thereof given to such applicant or his agent, who shall thereupon deposit and pay a fee as provided in Schedule 8 of this Law; and thereupon, subject and without prejudice to the provisions hereinafter contained, the said invention shall be protected under this Law for the term of six months next after the said deposit, and the applicant shall have during such term the like powers, rights and privileges as are conferred by Section 4 in respect of a protected invention; such invention may be used and published without prejudice to any Letters Patent to be granted for the same, and where Letters Patent are granted in respect of such invention, such Letters shall be conditioned to become void if such specification does not sufficiently describe and ascertain the nature of the said invention, and in what manner the same is to be performed; and, in case the invention is an improvement on any existing invention, if such specification does not sufficiently show in what the improvement consists.

Protection for
six months.

Avoidance of
Patent for
insufficient
description.

Complete speci-
fication to be
deposited eight
weeks before
expiration of
provisional
protection.

Unless a complete specification is deposited eight weeks at least before the expiration of the term of provisional protection the application shall be deemed to be abandoned; subject, however, to the power of the Attorney-General to extend the time as provided by rules and regulations made, or to be made, under the authority of the 3rd Section of this Law.

Complete speci-
fication may be
inspected.

2. Section 7 of said Law No. 4, 1870, shall apply only to complete specifications, and such complete specifications, after the delivery by the Attorney-General of the appointment therein referred to, shall be open to inspection by any person on payment of the fees provided in Schedule 8 of that Law.

Amendment of
sec. 11, Law 4,
1870.

3. Section 11 of said Law No. 4, 1870, is hereby amended by adding thereto the following proviso:—

Enlargement of
time for making
payments.

Provided, however, that if in any case by accident, mistake, or inadvertence a patentee fails to make any prescribed payment within any prescribed time, he may apply to the Registrar of Patents for an enlargement of the time for making such payment; and the Registrar of Patents, if satisfied that the failure has arisen from any of the above-mentioned causes, shall, on payment of the prescribed fee for enlargement as provided by Schedule 8, enlarge the time accordingly for any time not exceeding six months.

4. Schedule 8 of the said Law No. 4, 1870, is hereby amended by adding thereto the following item, that is to say:—
- | | |
|-----------------------------|----------------------------------------------|
| Enlargement of time, £2 2s. | Act 2, 1895.
Fee for enlargement of time. |
|-----------------------------|----------------------------------------------|
5. This Act and Laws No. 4, 1870, No. 5, 1871, and No. 32, 1884, shall be read and construed together as one Act.
- | | |
|--|-----------------------------|
| | Joint construction of Laws. |
|--|-----------------------------|

PAUPERS.

[See "BURIAL."]

PAWNBROKERS.

[See "MUNICIPAL CORPORATIONS."]

PENSIONS.

[See "CIVIL SERVICE"; "PUBLIC EMPLOYEES"; and, as to pensions of Judges, Act 39, 1896, s. 30, tit. "COURTS (SUPREME)."]

Law No. 3, 1872.

"To regulate the compensation to certain Government Officers (other than Judges of the Supreme Court) on their removal from the Public Service."

[23rd July, 1872.]

WHEREAS it is expedient to grant compensation to persons (other than Judges of the Supreme Court) [at present (A)] holding offices of profit under the Government of this Colony, whose offices shall be abolished:

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

Persons removed from public service in consequence of abolition of office to receive special annual allowance.

1. It shall be lawful for the Lieutenant Governor to grant unto every person (other than any Judge of the Supreme Court of this Colony) [at present (B)] holding any office of profit under the Government of this Colony, who shall be removed from the public service, in consequence of the abolition of his office, such special annual allowance by way of compensation as to the Lieutenant Governor and the Executive Council, on a full consideration of the case, may seem to be a reasonable and just compensation for the loss of office; and no such compensation shall exceed the rate set forth in the schedule to this Law, and no such annual allowance shall exceed two-thirds of the salary and emoluments of the office for which such compensation has been made (C).

Pensioners under 60 years of age liable to be re-called into public service.

2. Every person to whom a compensation allowance shall have been granted before he shall have attained the age of sixty years, shall, until he has attained that age, be liable to be called upon to fill, in any part of this Colony, any public office or situation under the Government for which he may be deemed eligible, and for which there shall be payable a salary not less than the one from which he was removed; and if he shall decline, when called upon to do so, to take such office or situation, or shall neglect to execute the duties thereof satisfactorily, ~~or if he shall accept of any Government appointment in Great Britain or Ireland, or in any of its Colonies or Dependencies,~~ he shall forfeit his right to the annual allowance which had been granted to him.

Forfeiture of pension for certain causes.

Commencement

3. This Law shall commence and take effect from and after the date of publication in the "GOVERNMENT GAZETTE" of this Colony, of a Proclamation signifying Her Majesty's confirmation thereof or assent thereto (D).

(A) Words in brackets are expunged by Law 11, 1887, post.

(B) See note (A).

(C) The question of alienability, or otherwise, of an allowance granted under this Law, on grounds of public policy, was argued in *Moreland v. Gem*,

14 N.L.R. 1. See also *Hodges v. Bainbridge*, 20 N.L.R. 205, where an assignment of a pension received under this Law was held valid.

(D) Proclamation of non-disallowance in G.G. dated Dec. 17, 1872.

PENSIONS.

SCHEDULE.

Law 3, 1872.

Scale of Compensation to Government Officers under this Law.

Schedule.

Actual Service under the Government of Natal.	Period which may be added to actual service under the Government of Natal in computing compensation under this Law.
20 years and upwards	10 years.
Under 20, and not less than 15 years	7 „
Under 15, and not less than 10 years	5 „
Under 10, and not less than 5 years	3 „
Less than 5 years	1 year.

The annual allowance to be granted shall not exceed in each case the rate of one-sixtieth of the average annual salary of the officer removed (during the three years immediately preceding his removal) multiplied by the number of years computed according to the foregoing table: Provided that no fractional part of a year be computed; and provided further, that the Lieutenant Governor may entertain any application which may be made to him to commute such annual allowance in any case for a fixed payment calculated at five year's purchase of such allowance.

Law No. 22, 1874.

“For regulating the Pensions of Officers in the Public Service of this Colony (other than Judges of the Supreme Court and Officers entitled to Pensions under Law No. 3, 1872).”

[30th September, 1874.]

WHEREAS it is expedient that provision should be made for granting pensions to Officers in the Public Service of this Colony (other than Judges of the Supreme Court and Officers entitled to Pensions under Law No. 3, 1872):

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

1. Subject to the exceptions aforesaid, and to the exceptions and provisions hereinafter contained, all persons holding office of profit in the permanent Civil Service of this Colony, and the permanent staff of the Legislative Council other than the Speaker, drawing a salary at the rate of Fifty Pounds and upwards per annum, and for whom provision shall not otherwise have been made by Law, or who may not be specially excepted by Law or by regulation hereunder, shall be entitled to pensions not exceeding the rates set forth in the Schedule to this Law; the amount of pension in each case to be determined by the Lieutenant Governor in Executive Council.

Persons entitled to pensions.

2. Provided always that it shall not be lawful to grant the full amount of pension which can be granted under this Law to any person not being the head officer or one of the head officers of a department, unless upon production of a certificate (signed by the head officer

Full pension not granted unless the officer has served with diligence and fidelity.

Law 22, 1874. of the department, or by two head officers if there be more than one) that he has served with diligence and fidelity to the satisfaction of such head officer or officers; and in every case in which any pension is granted after the refusal of such certificate, the minute granting it shall state such refusal, and the grounds on which the pension is granted.

Pension not payable for less than ten years' service.

3. No pension shall be payable under this Law for less than ten years' service (A); and fractional parts of a year shall not be computed in any case.

Service to be continuous.

4. The services in respect of which pensions are granted, must in all cases have been continuous, unless interrupted by reduction of office or other temporary suspension of employment, not arising from misconduct or voluntary resignation of the officer.

Absence with leave not to be deducted from period of service.

5. In computing the term of service of any public servant for the purposes of this Law, no deduction shall be made from the same in respect of any portion thereof during which he may have been or shall hereafter be absent from the performance of the duties of his office with the permission of the Government.

Pension computed upon salary, or average of salary, for last three years.

6. The pension shall be computed upon the salary received by the officer at the time of his retirement, provided he shall have held such office for at least three years, and that the salary of the same office shall not have been revised during that time; otherwise the pension shall be calculated upon the average annual amount of salary received by such person for three years next preceding the commencement of such pension.

Persons under sixty not entitled to a pension unless incapacitated from duty.

7. It shall not be lawful to grant any pension under the provisions of this Law to any person who shall be under sixty years of age, unless upon medical certificate to the satisfaction of the Lieutenant Governor and Executive Council, that he is incapable from infirmity of mind or body, to discharge the duties of his situation, and that such infirmity is likely to be permanent.

No right to compensation for past services

8. Nothing in this Law contained shall extend or be construed to extend to give any person an absolute right to compensation for past services or to any pension, superannuation, or retiring allowance under this Law, or to deprive the Government of power and authority to dismiss any person from the public service without compensation.

What persons may be called upon to re-enter the public service.

9. Every person to whom a pension shall have been granted on his own application, before he shall have attained the age of sixty years shall until he shall have attained that age be liable to be called upon to fill any public office or situation for which his previous public services may render him eligible; and if he shall decline or neglect to execute the duties thereof satisfactorily, being in a competent state of health, he shall forfeit his right to the pension which had been granted to him.

Pension to cease or be reduced upon re-appointment.

10. In case any person receiving a pension under this Law, shall be appointed to fill any office in any public department, such pension shall cease to be paid during the tenure of such office, if the annual amount of the profits of the office to which he shall be appointed shall be equal to those of the office formerly held by him; and in case they shall not be equal to those of his former office, then no more of his pension shall be paid to him than what with the salary of his new appointment shall be equal to his former office.

Persons sixty years of age may be compelled to retire.

11. It shall be competent to the Lieutenant Governor, in Executive Council, subject, as regards the officers borne on the Civil Service Fixed Establishments, to the approval of the Secretary of State, to

(A) But see Act 21, 1894, s. 33, tit. "CIVIL SERVICE."

require any public officer who shall have attained upwards of sixty years of age to retire; and such retirement shall be compulsory on such officer. Law 22, 1874.

12. It shall be lawful for the Lieutenant Governor, with the advice of the Executive Council, to make and from time to time to alter, amend, vary, or annul such rules and regulations as may be deemed necessary for carrying out the objects and regulating the operation of this Law, and copies of all such rules and regulations shall be laid before the Legislative Council so soon as may be after the promulgation thereof. Power to make and alter rules.

13. In all cases where any doubt shall arise as to who shall be considered public officers of this Colony within the meaning of this Law, or as to the period of service to be allowed in computing pensions hereunder, the decision of the Lieutenant Governor in Executive Council shall be final and conclusive. Governor to decide in cases of doubt.

14. All pensions granted under this Law are hereby made chargeable upon and payable out of the Public Revenues of the Colony; and the Lieutenant Governor may entertain any application which may be made to him to commute such annual pension in any case for a fixed payment, calculated at five years purchase of such pension. Pensions chargeable upon the public revenue.
Annual pension may be commuted.

15. A statement of all pensions granted under this Law shall be laid annually before the Legislative Council. Annual statement.

16. This Law may be cited for all purposes as the "Pensions Law, 1874." Short title.

17. This Law shall commence and take effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" after the passing thereof (A). Commencement

SCHEDULE.

Maximum Rates of Pensions to Public Officers under this Law.

Actual Service under the Government of Natal.	Period which may ^{shall} be added to actual services under the Government of Natal in computing Pensions under this Law.	Schedule.
10 years, and under 15 years	5 years.	
15 years and under 20 years	7 "	
20 years and upwards	10 "	

The maximum rate of pension to be one sixtieth of the salary multiplied by the number of years computed according to the foregoing table: Provided, that no pension shall exceed two-thirds of the salary of the office in respect of which such pension is granted.

Law No. 22, 1875.

"To secure a certain allowance or annual pension to Major the Honourable David Erskine, late Colonial Secretary of the Colony of Natal."

[17th December, 1875.]

WHEREAS it is necessary that an Act should be passed, making provision for Major the Honourable David Erskine, upon his retirement from the Office of Colonial Secretary of this Colony:

(A) Oct. 6, 1874.

Law 22, 1875.

BE IT THEREFORE ENACTED by the Lieutenant Governor of the Colony of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

Pension to Hon.
D. Erskine
authorised.

1. The Lieutenant Governor of this Colony is hereby authorised and required to pay, or cause to be paid, from and out of the General Revenue of this Colony, to the said Major the Honourable David Erskine, from the 18th July, 1874, and during the remainder of his natural life, a pension at the rate of Five Hundred Pounds Sterling per annum, payable quarterly.

Commencement

2. This Law shall be in operation from such date as the Lieutenant Governor shall fix and determine by Proclamation in the "GOVERNMENT GAZETTE" (A).

Law No. 11, 1887.

"To extend the provisions of Law No. 3, of 1872."

[19th January, 1887.]

WHEREAS it is expedient to extend the provisions of Law No. 3, of 1872, to Officers of the Government whose offices may be abolished:

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

Amendment of
Preamble and
sec 1 of Law 3,
1872.

1. The words "at present" in the preamble of the said Law, and the words "at present" occurring in the first section of the said Law, shall be and the same are hereby expunged.

Commencement

2. This Law shall commence and take effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (A).

Act No. 12, 1894.

"To Regulate the Pension payable to the Honourable John Trevenen Polkinghorne during his tenure of the office of President of the Legislative Council."

[5th July, 1894.]

WHEREAS it is by Section 55 of the Constitution Act, 1893, provided that if any of the persons entitled to a pension or retiring allowance under Schedule B of the said Act shall accept any other appointment under the Crown, in this Colony or elsewhere, his pension or retiring allowance shall, during the tenure of such appointment, merge or be reduced "pro tanto," according as the salary or emolument of any such appointment shall be equal to or less than the pension or retiring allowance of such person:

AND WHEREAS the Honourable John Trevenen Polkinghorne, who is entitled to a pension under the said Constitution Act of 1893, has accepted an appointment under the Crown, to wit, the office of President of the Legislative Council:

AND WHEREAS it is provided by Section 40 of the said Act that the salary of the President of the Legislative Council shall be at least equal to the salary of the Speaker of the Legislative Assembly:

AND WHEREAS it is expedient that the pension of the said Honourable John Trevenen Polkinghorne should be reduced, not to

(A) Took effect from 18th July, 1874. March, 1876.
See Proclamation in G.G. dated 21st (A) Jan. 25, 1887.

the full extent, but to one-half only of the salary payable to the said Honourable John Trevenen Polkinghorne as said President of the Legislative Council: Act 12, 1894.

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:—

The pension or retiring allowance granted to the Honourable John Trevenen Polkinghorne by the Constitution Act, 1893, shall, from the time when the said Honourable John Trevenen Polkinghorne was appointed to the office of President of the Legislative Council, and so long as he shall hold the said office, be deemed to have been reduced and shall be reduced by a sum equal to one-half of his salary as President of the Legislative Council, and not by any greater amount, anything in the said Constitution Act, 1893, to the contrary notwithstanding.

Regulation of the Hon. J. T. Polkinghorne's pension during his office of President of Legislative Council.

Act No. 25, 1897.

“To provide for the payment of a Pension to the Honourable Sir John Robinson, K.C.M.G., lately Prime Minister and Colonial Secretary of Natal.”

[29th May, 1897.]

WHEREAS it is expedient to make provision for the payment of a pension to the Honourable Sir John Robinson, K.C.M.G., in special recognition of the public services rendered by him to this Colony:

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:—

1. There shall be paid from the General Revenue of this Colony to the Honourable Sir John Robinson, Knight Commander of the Most Distinguished Order of Saint Michael and Saint George, lately Prime Minister and Colonial Secretary of Natal, as from the 15th day of February, 1897, and during the term of his life, a Pension at the rate of Six Hundred and Sixty-six Pounds Thirteen Shillings and Four Pence Sterling (£666 13s. 4d.) per annum, payable monthly.

2. If the said Sir John Robinson shall at any time hereafter hold any office in the Public Service of Natal, the Pension appointed by this Act shall cease for so long as he shall hold such office.

Payment of pension to Sir John Robinson.

Pension to cease while he holds any office in the Public Service.

Act No. 41, 1899.

“To enable the public service of Gerhardus Marthinus Rudolph, C.M.G., during the years 1855 to 1873 to be reckoned for the purpose of pension.”

[11th September, 1899.]

WHEREAS Gerhardus Marthinus Rudolph, C.M.G., after having served as a public officer of this Colony, from the 31st July, 1855, resigned office on the 1st December, 1873, and again entered the public service on the 11th June, 1881:

AND WHEREAS having regard to the special circumstances attending the resignation of the said Gerhardus Marthinus Rudolph and his return to the public service, it is considered desirable that the two

PENSIONS.

Act 41, 1899. periods of his service as aforesaid should for the purpose of pension be reckoned as one continuous service :

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:—

Mode of
reckoning
service for pur-
pose of pension.

1. The service of Gerhardus Marthinus Rudolph, C.M.G., as an officer of the public service of this Colony from the 31st day of July, 1855, to the 1st day of December, 1873, shall for the purpose of the pension to be awarded to him under Law No. 22, 1874, be deemed to be, together with his service from the 11th day of June, 1881, one continuous service, as if the first mentioned period had been a like period of service immediately prior to the 11th day of June, 1881.

PHYSICIANS

[See "MEDICAL PRACTITIONERS"]

PIETERMARITZBURG COLLEGIATE INSTITUTION.

Law No. 18, 1861 (A).

“ For Establishing, Regulating, and Providing for the Pietermaritzburg Collegiate Institution.”

[16th August, 1861.]”

WHEREAS it is expedient, for the advancement of learning in this Colony, to establish a Collegiate Institution at Pietermaritzburg:

AND WHEREAS John William Akerman, George Macleroy, James Archbell, John William Turnbull, and Philip Ferreira, have been appointed Trustees for the said intended Collegiate Institution, and certain lands are intended to be granted to the said Trustees for the endowment, erection, and maintenance thereof: and whereas it is expedient that a Law should be passed for carrying into effect such and other purposes, and for making more efficient provision for said Collegiate Institution, and for the management thereof:

BE IT THEREFORE ENACTED by the Lieutenant Governor of the Colony of Natal, by and with the advice and consent of the Legislative Council thereof, as follows:

1. That the lands, funds, property, and revenue belonging to the said Collegiate Institution shall be vested in, and administered by, the said Trustees, John William Akerman, George Macleroy, James Archbell, John William Turnbull, and Philip Ferreira, who shall superintend and conduct the affairs of said College, subject to the limitations and provisions hereinafter contained, and in manner hereinafter provided; and shall continue as such Trustees until others be appointed to perform the trusts and fill the office in manner hereinafter provided (B).

Lands, funds, property, and revenue, to be vested in and administered by Trustees.

2. Provided always, that if at the time appointed for the election of the said Trustees, the number of votes on the Voters' Register shall amount to and consist of less than one hundred votes, then the donors and subscribers shall be entitled only to elect one Trustee for each twenty votes, and the Lieutenant Governor and Mayor shall be entitled to nominate by rotation any deficiency in the number of elected Trustees, or all the Trustees, in case there shall not be twenty votes on Voters' Register. Provided, that when at the annual appointment of Trustees in the stead of retiring Trustees, the number of votes on the Voters' Register shall not amount to fifty votes, then if both the retiring Trustees be elected Trustees, the Lieutenant Governor and Mayor may, in rotation, nominate one of the new Trustees. Provided also, that if the number of votes on said Register should amount to one hundred on any subsequent appointment, whether the retiring Trustees be nominated Trustees or not, the said voters shall elect the two new Trustees until the number of elected Trustees be five.

Donors and subscribers entitled to elect one Trustee for each twenty votes. Governor and Mayor to nominate remainder.

3. The Trustees, for the time being, shall stand seized, and be possessed of, and be entitled to, all the land sites and other property, immovable and movable, and all monies, donations, subscriptions, fees, and other dues, already conveyed, granted, or given, or which hereafter may be conveyed, granted, or given to, or on behalf of, the said Collegiate Institution, in trust to erect, build, purchase, or hire, upon lease or

Powers of the Trustees.

(A) Partially repealed by Law 45, 1884, s. 1, post.

(B) See Act 5, 1894, s. 7, tit. "EDUCATION," which vests the trusts in the Governor in Council.

Law 18, 1861. otherwise, suitable buildings or premises for said Collegiate Institute, and to make such repairs as may be necessary from time to time, to enlarge and otherwise to increase and improve the accommodation of said Collegiate Institution from time to time, and at all times to appoint and dismiss the Principal and Masters, and all other officers and servants of the said Collegiate Institution, to determine, regulate, and fix and pay the salaries to the same respectively, and from time to time, and at all times, to diminish, increase, or alter the same, to found or erect scholarships, to determine and fix upon the number of pupils to be admitted, and the mode or manner in which pupils are to be admitted, to accept such donations for the foundation of special scholarships as they may deem advisable, to regulate and authorise all disbursements out of the College funds, and generally to make such rules, bye-laws, and regulations for the due and efficient management, conducting, regulation, and suspension of the same as may be necessary and requisite, and from time to time to alter, repeal, or amend the same.

Records to be kept. Half-yearly statements and report to be forwarded to Colonial Secretary.

4. The said Council of Trustees shall cause true and correct records to be kept of all its proceedings, and true and correct accounts of all monies received and expended on behalf and account of said Collegiate Institution, and shall transmit to the Colonial Secretary, for the information of the Governor, a statement of the revenue and expenditure for the past year, and a general report of the state and affairs of the said Collegiate Institution.

Trustees may sell, mortgage, or lease lands.

5. It shall and may be lawful for the said Trustees to sell or exchange, or mortgage or lease, any lands, now or which at any time hereafter may be vested in the said Trustees aforesaid, and to apply the proceeds or price of the lands so sold for any of the purposes connected with the said Collegiate Institution, for which they are empowered to act under the provisions of this Law.

First Trustees tenure of office.

6. The said Trustees shall remain in office until the first Thursday in June, 1862, and thenceforth until some other Trustees shall be appointed in their stead, and at the general half-yearly meeting which shall be held on the first Thursday in June, 1862, the said Trustees shall vacate their office, and other Trustees shall be elected in manner following:—The Lieutenant Governor shall nominate one person, the Mayor of Maritzburg shall nominate one person, and the subscribers and donors to said Collegiate Institution shall elect by vote five other persons, to be Trustees in the room and stead of the Trustees so already appointed. A list of the said Trustees shall be made up, and their seniority determined by lot, and two Trustees who stand lowest upon the list shall retire at the half-yearly meeting to be held in June, 1863; and if the Trustees, or one of them, be a Trustee nominate, then the Lieutenant Governor, or the Mayor of Maritzburg, as the case may be, or both, may nominate the retiring Trustee, or some other person, to fill the said office, or, if elected Trustees or Trustee, the subscribers and donors shall elect by vote two new Trustees or one new Trustee, as the case may be, in the place or stead of them or him so retiring; and in the same manner at each successive half-yearly meeting in the month of June, the two Trustees at the foot of the list shall retire, and the Governor or Mayor of Pietermaritzburg, or the subscribers or donors, in manner hereinbefore mentioned, shall nominate and elect two persons to be Trustees in the place and stead of those retiring. Provided always, that any Trustee so retiring as aforesaid, shall be eligible for re-nomination or re-election.

Mode of electing others in their stead.

7. In the event of the death, incapacity to act, removal, or resignation of any Trustee, the same proceedings shall be had thereon, within one month after the vacancy occurs, for the nomination or election of another Trustee as in last preceding section is mentioned, and when occasion may require, a general meeting called for that purpose, and the Trustee then nominated or elected shall continue as Trustee until the period for which the Trustee so vacating, in any of the cases aforesaid, would otherwise have remained in office, and no longer.

Law 18, 1861.
Vacancy by death or otherwise, how filled.

8. Any Trustee who shall resign, retire, become disqualified, or be removed, shall nevertheless remain responsible or liable for any act performed by him as such Trustee, or done under pretence of his office as Trustee, for a period of five years from the time he may, from any of the reasons aforesaid, cease to be a Trustee.

Trustees to remain responsible for five years after retirement.

9. The Trustees shall hold general meetings every year on the first Thursday in June and December, and shall hold monthly meetings on the first Thursday in every month, and the said Trustees shall meet at any time when required by a notice in writing, signed by the chairman, and delivered to each Trustee not later than twenty days previous to the time of meeting appointed, and the chairman shall, and is hereby required, to call a meeting of Trustees in like manner within ten days after being thereunto required by a requisition signed by no less than three Trustees, setting forth the purpose for which the same is held; and it shall and may be lawful for the Trustees to adjourn any meeting to a future day and at any adjourned meeting to adjourn the same.

Meetings of Trustees.

10. The Trustees shall, at their half-yearly meeting in December, every year elect, from among themselves, a chairman for the current college year, who, when present, shall preside at meetings of said Trustees. When such chairman shall be absent from any such meeting, the said Trustees shall elect one of themselves to act as chairman of such meeting; and in case the said Trustees shall at any time be equally divided, the chairman, or director acting as chairman, shall have a casting vote in addition to his own vote.

Trustees to elect a chairman.

11. Three Trustees shall form a quorum, and shall be competent to perform all matters and things which may be done by the Trustees under the provisions of this Law.

Quorum.

12. Every person who shall annually pay a sum of three pounds sterling to the said Trustees, shall thereupon be for that year registered as a first class subscriber, and shall be entitled to two votes. Every person who shall pay a sum of twenty-five pounds sterling to the said trustees shall be registered as a first class subscriber, and be entitled to two votes.

Privileges of annual contributors.

Contributors of £25.

13. Every person who shall annually pay to the Trustees of the said Collegiate Institution a sum of two pounds sterling, shall thereupon, for that year, be registered as an ordinary subscriber, and shall be entitled to one vote. Every person who shall pay a sum of fifteen pounds sterling to the said Trustees, shall be registered as an ordinary subscriber, and shall be entitled to one vote.

Privileges of annual contributors of £2.

Contributors £15.

14. When and so often as any person shall make a donation to the said Collegiate Institution of any greater sum than twenty-five pounds, he shall be registered as first class subscriber, and shall be entitled to as many votes as the scale to be fixed by the Trustees may warrant and authorise.

Donors of more than £25.

15. When any person shall annually pay to the said Trustees any sum exceeding three pounds sterling, he shall thereupon, for that year, be registered as a first class subscriber, and be entitled to as

Annual contributors of more than £2.

Law 18, 1861. many votes as any scale to be fixed and determined by the Trustees may warrant and authorise.

Voters' register, how prepared.

16. The Trustees shall keep a book wherein they shall enter the names and addresses of all subscribers and donors, and shall therein register the same respectively, and shall, on the first day of every month, make out a list of all persons qualified to vote, and the number of votes any person thereon is entitled to give, which list shall be called the Voters' Register.

Trustees to issue certificates to each donor, which may be assigned, transferred, or devised.

17. The said Trustees shall issue a certificate to each donor, signed by the chairman of the said Trustees, which certificate shall specify the amount paid; and every such donor may assign, transfer, or devise the said certificate; and upon any such change of ownership, the person to whom such certificate shall be so assigned, transferred, or devised, shall not be entitled to any vote, or derive any advantage therefrom, until such change be registered by the said Trustees, who are hereby empowered, if they should so think fit, to register such change of ownership. Provided always, there be paid, upon every such change of ownership by first class donors the sum of three pounds sterling, by ordinary donors a sum of two pounds sterling.

Subscribers and donors entitled to give the number of votes on Voters' Register.

18. In all matters submitted to the consideration of subscribers and donors, at any general or special meeting, all the subscribers and donors shall be entitled to give the number of votes which, on the Voters' Register, are recorded in their names. Provided, no person shall be entitled to vote whose name does not appear to be on the Voters' Register one month previous to such meeting, and provided that all voters, not actually residing within the limits of the City of Pietermaritzburg, shall be entitled to vote by proxy.

At general half-yearly meetings Trustees to lay before subscribers and donors a report of their proceedings, and of the state of the College.

19. At the general meetings to be held in the months of June and December, the Trustees shall lay before the subscribers and donors a report of their proceedings, and the state of the Collegiate Institution during the preceding half-years, at which it shall be competent for the shareholders then present, upon motion duly made and seconded, to consider and determine upon the proceeding included in said report, and a general meeting of the subscribers and donors shall be held at any time, provided the said Trustees shall give fourteen days notice thereof, and of the purpose for which the same is to be held, in the "GOVERNMENT GAZETTE" of this Colony, and the Trustees shall call a meeting of the subscribers and donors after having been thereto required by notice in writing, delivered to the chairman of Trustees, signed by no less than twenty-five voters on the Voters' Register, and setting forth the purpose for which the same is to be held. Provided it shall not be lawful for any meeting of subscribers and donors to pass any resolution whereby any of the provisions of this Law shall be virtually altered or rendered ineffective, or which shall be inconsistent with any engagement duly entered into by the said Trustees with any person or persons relative to any matter whatever. Provided that no business shall be transacted at any such meeting by such subscribers or donors unless there shall be then present not less than thirty voters entitled to vote.

Officers of the College.

20. The officers of the College shall consist of a Principal, and such other Professors, Masters, and subordinate officers, as the Trustees shall, from time to time, determine and consider requisite. The Principal of said College shall be a graduate of the Universities of Oxford, Cambridge, Dublin, Edinburgh, or London. Provided always, in the case of any vacancy in the office of Principal, the said Trustees shall have power to appoint temporarily a Principal not qualified as aforesaid.

21. There shall be an Educational Council, composed of seven members, of which the Principal of the College shall be "ex officio" a member and chairman, and in case of equality of votes shall have a casting vote in addition to his vote as member, the remaining six shall be constituted and appointed in manner following, and shall each respectively hold their office for three years from the date of their appointment:—The Lieutenant Governor and Mayor shall each, from time to time, nominate and appoint one member each; the Trustees shall elect one member from among themselves, who shall hold his seat at the Educational Council as long only as he continues Trustee; the subscribers and donors shall elect three members of such Educational Council, provided the number of votes on the Voters' Register shall amount to fifty. When any member of the Educational Council shall either resign or otherwise vacate his office, or when the period for which he is to hold his office shall have expired, the same party who nominated or elected the same shall nominate or elect a member of the Educational Council in lieu or stead of him so resigning or otherwise vacating. Any member who shall vacate his office shall be eligible for re-election or re-nomination.

Law 18, 1861.
Constitution of Educational Council.

22. The Educational Council shall control and determine and decide upon all matters relating to the discipline of the schools, the religious and moral training of the students, what books shall be used, the character of the various examinations for entry into the College, for competing for scholarships, or other purposes, the subjects to be taught, the books to be used; and in said Council of Education shall be vested the superintendence and regulation of the discipline and instruction of the several scholastic departments and classes of the said Collegiate Institution, and for all or any of the purposes in this section contained, to frame and pass, from time to time, such rules and bye-laws as the said Council may deem necessary.

Powers of Educational Council.

23. No pupil shall be admitted into the College until he has satisfactorily passed such examination as the Council of Education shall from time to time determine and appoint; and in case there are more candidates to be admitted as pupils than there are vacancies, then the pupils, after having passed the examination in manner aforesaid, shall be admitted according to priority of application.

Pupils to pass an examination before admission.

24. There shall be one scholarship of the annual value of thirty pounds open for competition by public examination amongst pupils of the College, on such subjects as the Council of Education may direct and appoint.

Scholarship.

25. There shall be one scholarship of the annual value of thirty pounds to be competed for by the sons of Colonists in such examination as the Council of Education may appoint: Provided, no person shall be eligible thereto who shall hold any other scholarship in any other College in Natal. These scholarships shall be tenable for three years, provided the scholar thereto elected shall so long continue a pupil of the College.

Scholarship to be competed for by sons of colonists.

26. There shall be two foundation scholarships, one in the gift of the Trustees, the other in the gift of subscribers and donors, to be selected from pupils who shall have passed the entrance examination, the sons of Colonists, such scholarships to be tenable for three years: Provided, that if the votes on the Voters' Register should not amount to fifty, then the scholarship in the gift of the subscribers and donors shall be given away and nominated to alternately by the Lieutenant Governor and the Mayor.

Foundation scholarships.

27. The Lieutenant Governor, Chief Justice, two Puisne Judges and Mayor of Pietermaritzburg, and their successors in office, shall be visitors of the said Collegiate Institution; and shall, either

Visitors of the College, their powers.

Law 18, 1861. separately or together, have power from time to time and at all times to visit the said Collegiate Institution, and call before them or him and examine the Principal, Professors, and other subordinate officers thereof, and enquire into the government and management thereof, and to call for the production of all records, accounts, and other documents connected with the general management of the Collegiate Institution, and the due discharge of the trusts invested in the Trustees and Council of Education, and to examine, enquire into, and determine the same.

Actions to be
by or against
Chairman of
Trustees.

28. All actions or other proceedings at law to be instituted by or against the Trustees or Council of Education of said Collegiate Institution shall be so instituted for, by, or against the Chairman of the Trustees for the time being.

Commencement

29. This Law shall commence and take effect from and after the promulgation thereof in the "GOVERNMENT GAZETTE" (A).

Law No. 45, 1884.

"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."

[8th November, 1884.]

WHEREAS it is expedient to make provision for certain Funds and Lands, now set apart for Colleges and Schools not established, being made available for Educational needs in the Colony:

AND WHEREAS in the year 1861 a Law (No. 18 of 1861) was passed for establishing, regulating, and providing for a Collegiate Institution at Pietermaritzburg:

AND WHEREAS, under the provisions of the aforesaid Law, No. 18 of 1861, certain lands, funds, property, and revenue have from time to time been vested in certain Trustees for and on behalf of the said Collegiate Institution:

AND WHEREAS no effective steps have been taken to establish the Institution contemplated by that Law:

AND WHEREAS it is expedient to appropriate the lands, moneys, and other property, by whomsoever granted, given, or transferred under the said Law as aforesaid, to the Educational needs of the Colony as provided for in this Law:

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

Partial repeal
of Law 18,
1861.

1. So much of the Law No. 18, 1861, entitled, Law "For establishing, regulating, and providing for the Pietermaritzburg Collegiate Institution," as is inconsistent with the provisions of this Law, shall be and the same is hereby repealed.

Transfer of
property of
Pietermaritz-
burg Collegiate
Institution to
Council of
Education.

2. All lands, funds, property, and revenue of every nature and description belonging to the said Collegiate Institution of Pietermaritzburg, by whomsoever originally conveyed, granted, given, or transferred for the purposes of the said Institution, and all property, movable and immovable of every description, and all interest, rents, and profits that may have been since derived from the said lands, funds, property, or investments thereof, so conveyed, granted, given, or transferred, shall be vested in and administered by the Council

(A) Aug. 27, 1861.

of Education of Natal, constituted and appointed under and by virtue of Law No. 15, 1877, as aforesaid (A). The Council of Education shall, from and after the commencement of this Law, stand seized and be possessed of, and be entitled to all the land and other property, movable and immovable, so conveyed, granted, given, or transferred, as aforesaid, and the fruits thereof, to be applied by such Council of Education for the erection and maintenance, with all necessary boarding and residential accommodation, of a School for the Higher Education of Boys, and be managed, carried on, and conducted under the provisions of Law 16, 1877, upon the land granted to the Trustees of the Pietermaritzburg Collegiate Institution by the Corporation of Pietermaritzburg. The Council of Education shall be bound to begin such School within three years from the date of the passing of this Law, and to complete the erection of such School without any unnecessary delay: Provided however that should such School not be commenced within such period of three years the funds and property hereby granted shall revert to the respective donors thereof.

Law 45, 1884.

To be applied to erection and maintenance of School for Higher Education for Boys.

3. The Council of Education of Natal, constituted and appointed under the provisions of the Law passed in 1877, entitled a Law "To make better provision for Primary or Elementary Education in the Colony of Natal," may take and hold lands now or hereafter granted or transferred to them within the Colony of Natal, or any interest in such lands, and may grant, sell, lease, or otherwise dispose of the said lands in such wise as they shall deem fit for the purposes of Education in the Colony: Provided however, that the approval of the Governor shall be first obtained to any such appropriation; and provided further that any lands which may be vested in the said Council of Education by this Law shall be used only for the purposes of this Law.

Council of Education may hold and dispose of lands for purposes of Education, subject to approval of Governor to appropriation.

4. This Law shall commence and take effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE," and shall be read and construed together with Laws Nos. 15 and 16 of 1877 as one Law (B).

Commencement.

(A) See Act 5, 1894, s. 7, tit. "EDUCATION."

(B) Nov. 21, 1884.

PIETERMARITZBURG CORPORATION.

Law No. 28, 1863.

“To legalise certain Acts of the Corporation of the Boroughs of Pietermaritzburg and Durban.”

[5th August, 1863.]

WHEREAS the Town Council of Pietermaritzburg have increased the number of wards in that Borough, and certain persons have been requested to become candidates for election as Town Councillors therein: and whereas by Law No. 21, 1862, it is provided that such additional wards should only be created by any Council elected under said Law: and whereas no such election has hitherto taken place, and it is expedient to legalise the division of the Borough into wards by the now existing Council, although elected under the provisions of a former Law: and whereas it is provided under Law No. 21, 1862, that all requisitions for the first election of Town Councillors for any Borough shall be transmitted, together with the candidates' acceptance thereof, to the Resident Magistrate ten days before such elections are appointed to take place: and whereas the requisitions for the election of Town Councillors for the Borough of Durban, and the candidates' acceptance of such requisitions, have been transmitted to the Mayor of Durban:

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

1. That the division of the Borough of Pietermaritzburg into six wards by the present Council is hereby declared as good and valid as if such division had been made under the provisions of the Law No. 21, 1862 (A).

2. The election of any person who shall hereafter be duly elected councillor for any ward into which the said Borough of Pietermaritzburg has been so divided as aforesaid, shall be as good and valid and effectual as if elected councillor under the provisions of the said Law No. 21, 1862; and he shall be deemed elected for any ward into which the Borough has been divided, as if the said division had been made by the Council of the Borough, elected at the first election after the coming into force of said Law No. 21, 1862.

3. If the voters in any ward into which the said Borough of Pietermaritzburg shall have been divided as aforesaid, shall fail to elect two councillors for such ward, or if the voters for such ward shall only elect one such councillor, then in every such case the Council may proceed and exercise all the powers and authorities vested in them under Law 21, 1862, to all intents and purposes as if two councillors had been elected for such ward. Provided always, that when only one person is elected for any such ward, such person shall be deemed a member of the Council of the Borough, anything in the Law No. 21, 1862, notwithstanding to the contrary contained.

4. In any ward for which no councillors, or only one councillor, shall be returned, the Council shall adopt such and the like measures for filling up such vacancy as may exist therein, as would have been competent for the Council to do in the event of a vacancy occurring in such ward by death, resignation, or other incapacity of a duly elected councillor.

Division of Pietermaritzburg into six wards declared valid.

Election of councillors for the wards into which Borough has been divided as above declared valid.

Preserves powers of Council in event of non-election of Councillors for any ward, divided as above.

Vacancy, how to be filled up.

(A) See Law 19, 1872, s. 2, tit. “MUNICIPAL CORPORATIONS.”

5. The transmission of any requisition to become a candidate for the next election as councillor for any ward, and the candidate's acceptance thereof, to the Mayor of the Borough of Durban, shall in no way invalidate or impair the election of any councillor for the Borough of Durban, but his election, and all proceedings thereon, shall be as valid and effectual as if the same had been conducted as directed by Law No. 21, 1862, concerning the first election of councillors for any Borough, and the Council so elected for the Borough of Durban shall have, exercise, and possess and enjoy, all the powers, rights, and authorities vested in them under Law No. 21, 1862, as fully and effectually as if the said Council were duly and regularly elected under that Law.

Law 28, 1863.

Legalising transmission of requisition to Mayor of Durban instead of to Magistrate.

6. This Law shall commence and take effect from and after the publication thereof in the "GOVERNMENT GAZETTE" (A).

Commencement

Private Law, 1864.

"To empower the Corporate Council of the Borough of Pietermaritzburg, to raise by Loan or otherwise, either in this Colony or elsewhere, Monies not exceeding the Sum of Fifty Thousand Pounds."

[26th September, 1864.]

WHEREAS the Corporation of the Borough of Pietermaritzburg are desirous of supplying the City with water, of improving the main roads thereof, hardening the footpaths and streets, paying their debts now owing, of endowing the Collegiate Institute of the City, of re-surveying the City and Town Lands, of erecting a Town Hall and Bridge over the Little Bushman's River, and of executing other necessary public works within the said Borough :

BE IT THEREFORE ENACTED by the Lieutenant Governor of the Colony of Natal, with the advice and consent of the Legislative Council thereof, as follows :—

1. It shall be lawful for the Council to raise and take up by public competition upon Debentures, or such other instruments as may be deemed by said Corporate Body expedient such sum or sums of money, not exceeding in the whole Fifty thousand pounds, as may be required for the purposes hereinbefore mentioned.

Council may raise 450,000 on debentures.

2. Every bond, debenture, or other security granted under this Law may bear any interest not exceeding Nine pounds for every One hundred pounds by the year, and such interest shall be payable at such times and places, as may in such bond, debenture or other security be covenanted and agreed to therein.

Interest not to exceed nine per cent.

3. Every such bond, debenture, or other security granted under this Law, shall be signed on behalf of the Corporation by the Mayor and two Councillors and countersigned by the Treasurer of the said Corporation.

How bonds to be signed.

4. All sums of money due and owing under this Law, together with such interest as may be due thereon, are hereby charged on and made payable out of the Town lands of the Corporation of Pietermaritzburg and the general revenue of said Corporation, in preference to all other payments which now or hereafter may be charged upon the said revenue and Town lands.

Sums due by bond to be charged on revenues.

5. All sums lent under and by virtue of this Law shall be repaid within a period of Forty years from the respective dates of said loans.

To be repaid within 40 years.

(A) Aug. 11, 1863.

Private Law,
1864.

Council to pay
interest.

6. The Council shall pay out of the rents and general revenue of the Corporation, or out of the proceeds of the sale of such Town lands, as the Council for the time being shall think fit, as interest on said loans, such sums as shall not exceed Ten pounds five shillings per centum per annum on the total of the principal sums from time to time borrowed under this Law.

Sinking fund
for re-purchase
of debentures.

7. The Council after the payment of the interest thereout, as the same shall from time to time become due, shall invest or cause to be invested the residue thereof as a sinking fund in first mortgages on immovable property in Natal, in the re-purchase of their own debentures, or in the public funds of Great Britain and its dependencies; and may invest, or cause to be invested, the dividends, interest, or annual produce arising from such investment, in the same manner as aforesaid, so that the same may be accumulated by way of compound interest.

Deficiencies to
be made good
out of sales of
town lands.

8. The Council shall, out of the proceeds of the sale of Town lands, make good any deficiency that may be found in the sinking fund at any of the respective times appointed for the payment of said bonds, debentures or other securities.

Town lands
may be sold.

9. It shall be lawful for the Council to sell annually by public auction, and transfer, such extent of Town lands as may be requisite for the purpose of raising either the whole or a part of the funds necessary to meet the requirements under this Law (A).

Commencement

10. This Law shall be taken to be a public Law; and shall be in force on and after the publication thereof in the "GOVERNMENT GAZETTE" (B).

Law No. 15, 1865.

"To cancel and remove certain servitudes lately attaching to certain pieces of land now the property of the Colonial Government."

[24th August, 1865.]

WHEREAS it has been deemed desirable to purchase for the Colonial Government of Natal two certain pieces of land situate in the Borough of Pietermaritzburg and adjoining to the Government House; which said pieces of land are described in a certain deed of transfer passed before the Registrar of Deeds on the 17th day of February, 1865, by one J. R. Mostert, of Pietermaritzburg, in favour of the Colonial Government of Natal: And whereas there were created by the original Government grant certain servitudes, real and personal, which said servitudes were imposed on said pieces of land, and which said servitudes are described in the schedule hereunto annexed: And whereas the Mayor, Councillors, and Burgesses of the Borough of Pietermaritzburg were mainly interested in the existence of said servitude and upon the sale to the Colonial Government agreed and consented in the consideration of the sum of fifty pounds sterling to them paid to cancel and destroy said servitudes: And whereas doubts have arisen as to the power to cancel, destroy and remove said servitudes and it is expedient to remove the same:

BE IT THEREFORE ENACTED by the Lieutenant Governor of the Colony of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

Servitudes
cancelled.

1. The servitudes in the schedule to this Law annexed shall be and the same are hereby cancelled and removed from said pieces of

(A) See Private Law, 1866, post. (B) Oct. 4, 1864.

land in the preamble referred to, and the Colonial Government and their assigns shall hold and enjoy said pieces of land freed and discharged from the said servitudes created by the original Government Grant and imposed thereby on said pieces of land. Law 15, 1865.

2. The Mayor, Councillors and Burgesses of the said Borough of Pietermaritzburg are hereby freed and held harmless in respect to the said cancellation and agreement and discharged from all liability from having agreed to the same. Mayor, &c., of Pietermaritzburg indemnified.

3. This Law shall commence and take effect from and after the promulgation thereof in the "GOVERNMENT GAZETTE" (A). Commencement

SCHEDULE.

Conditions and Stipulations upon which Landdrost and Heemraaden (by authority of the Council of the people) intend to sell by public auction, by way of the fall, a certain piece of ground, measuring 60 feet square, situate at the upper side of the Upper Cross street to Church-street eastward in the Village of Pietermaritzburg. Schedule.

1. This piece of ground is sold under the express conditions that the same shall not be used for any other purpose than for the erection of an overshot mill, of which the outer wheel shall be at least ten feet in diameter and can grind at least 6 muids of grain in the 24 hours.

2. The mill must be built and be at work within the period of six months reckoned from this day on pain of forfeiting the purchase amount and of the piece of ground being resumed and being resold; when the first purchaser will only be allowed to remove whatever he may have built on that ground.

3. So much water shall be allowed to run over the mill as can conveniently be done without injuring any of the erven in the Village.

4. The purchaser or possessor of this ground shall be bound to take care that no dirt or impediment be caused to or by the water to the injury or nuisance of his neighbours or contrary to the Village regulations already existing or hereafter to be made.

5. No kraal for enclosure shall be made on this ground, nor a butchery or tannery ever erected.

6. The watercourse, from the Groote to where it runs again on the ground above the first Cross street, shall always be kept clean and in good order by the possessor, without leakage, so that no filthiness or nuisance be caused thereby; on pain of such fine as shall be imposed by the competent court.

7. The owner of that ground shall not be allowed to turn more water to the mill than shall be allowed by the overseer of the water-courses, by partition, on pain as above.

8. The purchaser or possessor of the time shall take care that the mill can be continually worked, and is kept in a good state of repair, on pain as above.

9. He shall not refuse to grind for ready money for any person whomsoever; but the inhabitants of the Village shall have the preference, according to the rule first come first served; neither shall he refuse to grind all sorts of grain (corn or wheat having the preference), and when there is no corn on hand then maize, barley, or rye; but if there be any of these on the mill and corn comes in afterwards, then it must take its turn.

10. The purchaser or possessor of the mill shall not demand more for grinding than one rix dollar for the muid of wheat, rye or barley;

(A) Aug. 29, 1865.

Law 15, 1865. and half a crown for maize, Kaffir corn, or the like grain; and deduct no more than three pounds from the weight of the muid.

11. The building wherein the mill is placed must be tight, so that no injury by water or rain can be done to the grain brought there for grinding; the same shall also be provided with good doors, windows, and locks, so that no theft can be committed without violent breaking in; the possessor of the mill being always responsible for damage caused by him or through his neglect.

This framed and read over on the day of sale at Pietermaritzburg, the 6th July, 1841, Pieter Hendrich Kritzenger, Sen., having become the purchaser of the said piece of ground for the sum of Rds. 360.

As purchaser: (Signed) P. H. KRITZENGER.

In my presence: (Signed) BOSHOFF, Landdrost.

Private Law, 1866.

“To amend and extend the powers of the Law enacted in the year 1864, entitled ‘Law to empower the Corporate Council of the Borough of Pietermaritzburg to raise, by Loan or otherwise, in this Colony or elsewhere, moneys not exceeding the sum of Fifty Thousand Pounds.’”

[3rd August, 1866.]

WHEREAS by the above-mentioned Law, the Corporate Council of the Borough of Pietermaritzburg are authorised and empowered, for the several purposes therein specified, to raise upon debentures, or other instruments or securities, sums of money not exceeding in the whole Fifty Thousand Pounds, at a rate of interest not exceeding nine pounds per centum per annum, chargeable preferentially, as well in respect of all principal moneys as of the interest thereon, upon the Town Lands and general revenue of the Corporation of the said Borough of Pietermaritzburg; such sums to be repaid within forty years, and with interest as therein mentioned in the meantime:

AND WHEREAS it is deemed advisable and expedient, in order the better to provide for the repayment of all and singular the said moneys within such period, and for the liquidation of the interest thereon in the meantime, and for the purpose of obtaining, on the sale by the said Council of any such lands, as high prices as can be realised for the same at the respective periods of any such sales, to enlarge the provisions of the said Law by conferring further powers on said Council, in particular with respect to the periods of payment of the purchase price of any Town Lands to be sold under or for the purposes of said Law:

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

Council in selling Corporation lands may stipulate for payment of price by instalments.

Periods of payment.

1. Whenever the Corporate Council of the Borough of Pietermaritzburg shall deem it expedient to sell any of the Town Lands, under the powers or provisions of the said Law of 1864, it shall be lawful for such Council to stipulate that any such sales shall be on the terms and conditions of the payment of the purchase prices thereof, either in whole or in part, at such periods, and by such instalments or portions thereof, and at such rates of interest, as may from time to time be determined upon by the Council for the time being: Provided that the periods of payment of such purchase prices or instalments, or portions thereof, shall not extend beyond the period of the forty

- years contemplated by such Law for the repayment of the said proposed loan. **Private Law, 1866.**
2. Upon any and every such sales as aforesaid, the respective purchase prices, or any portions or parts thereof, which, on the grant of transfer of any such land so sold, shall be or remain unpaid, shall, together with the interest to become due thereon, be a first charge on the respective lands and properties so sold, and be secured by preferential mortgage thereon, and shall be further collaterally secured by the respective bonds of the purchasers thereof, bearing even date with the deeds of transfer thereof, for the respective sums so to become payable, and the same shall be so taken, with or without other collateral security, as the said Council, on each or any such sale, may deem expedient. **Purchase price of lands to be a first charge by mortgage on lands sold.**
3. All mortgage bonds and other securities granted under the provisions of this Law, shall be duly registered according to law, and shall specify that the same are so granted for the purposes aforesaid, and that the moneys thereby to be secured are applicable to the repayment of the moneys borrowed, or to be borrowed, by the said Council, upon the debentures or other instruments or securities aforesaid. **Such mortgages to be registered, &c.**
4. All and every of the purchasers of any such lands may, at any time during such periods, redeem the said lands from any such bonds, mortgages, and other charges thereon, by payment unto the said Council of the respective purchase prices, or balance of purchase prices thereof, with all interest then due or accruing due thereon, and of a further sum equal to one-half year's additional interest as aforesaid, calculated from the respective period of each such respective payments or liquidations as aforesaid. **Purchasers of land may redeem mortgages at any time.**
5. All sums of money which may be paid or raised for or on account of the purchase prices of any Town Lands so sold as hereinbefore mentioned, or of any interest thereon, shall be applied to or towards the purposes of said Law of 1864. **Application of monies received through these sales.**
6. It shall be the duty of the Council of the Corporation for the time being, and from time to time of each successive Council in each year, to transmit to the Lieutenant Governor a full and particular account of all property sold in pursuance of the provisions of this Law, and of the prices for which each such property has been sold, and of all sums from time to time received on account thereof, and of the manner of the application of all such moneys. **Council to transmit to Governor yearly accounts of lands sold.**
7. It shall be lawful to the purchasers of any Town Lands sold by the said Council under the provisions hereof, or of the said Law of 1864, notwithstanding such lands shall be charged or burdened with any such mortgage bonds in security for the purchase prices thereof, upon the written consent of the Council first had, to grant leases of any such Town Lands, or of any portion thereof, for any period not exceeding forty years from the period at which the debentures under said Law of 1864 are issued, without the consent therefor of any of the holders of the debentures, or other instruments or securities issued, or to be hereafter issued, by the said Council, in virtue of such aforesaid Law. **Council may grant leases, not exceeding 40 years, of lands charged with debentures under Law of 1864.**
8. It shall also be lawful for the said Council to grant leases of any portions of their Town Lands upon the consent of the Lieutenant Governor, under the provisions of the Law No. 21, 1862 (A), entitled "Law amending and consolidating the Laws in regard to Municipal Corporations," without the consent therefor of the holders of any of the debentures, instruments, or other securities, issued or to be issued by said Council, under said Law of 1864, or under this Law, notwithstanding anything therein contained to the contrary thereof. **Council may grant leases under Law 21, 1862.**

(A) See Law 19, 1872, s. 2, tit. "MUNICIPAL CORPORATIONS."

PIETERMARITZBURG CORPORATION—BOUNDARIES,
BEACONS, &c.

Private Law,
1866.

This Law not to
affect sales by
Council under
Law of 1864.

Public Law.
Commencement

9. The provisions of this Law shall not affect the sale of any Town Lands sold, or to be hereafter sold, by said Council, in virtue of the powers conferred on the Council by the said Law of 1864, in regard to such corporate lands.

10. This Law shall be deemed and taken to be a Public Law, and shall take effect from and after its promulgation in the "GOVERNMENT GAZETTE" (A).

Private Law, 1866 (B).

"To remedy certain evils and inconveniences arising from the confusion of the boundaries of various Blocks, Lots, Erven, or other subdivisions of lands, and of the streets and public ways within the City or Borough of Pietermaritzburg; and to sanction and legalise the re-survey and general plan of such city, and certain defined beacons; and for granting powers to adjudicate and settle disputes and differences thereon, and in regard to trespasses by encroachment on such lands, streets, and public ways."

[3rd August, 1866.]

WHEREAS much confusion and uncertainty have arisen with reference to the true boundaries and extents of various of the blocks, lots, or erven, and other plots of lands, or subdivisions thereof, within the limits of the Town or City and Borough of Pietermaritzburg, in consequence of erroneous or conflicting surveys of the same, and from the absence of duly marked and legally appointed beacons, and from various encroachments on some of the streets, roads, and public ways, and on the blocks, lots, erven, or other subdivisions thereof, and it hath therefore become necessary to provide measures for remedying the same:

AND WHEREAS, with a view to such object, the Council of the Corporation of the said city have recently caused a general re-survey of the blocks or plots of land and streets or other public ways of the said City or Borough to be made by Government Surveyor George Pigot Moodie, assisted by Government Surveyor Alexander Mair, in order the better to fix the true sites of blocks, and the proper beacons and true boundaries of the said blocks and divisions of the land of the said city, and on the completion of such re-survey, to cause certain recognised beacons to be fixed or denoted accordingly:

AND WHEREAS the said Council thereupon caused to be prepared a general plan of the said city, said plan having marked thereon the various beacons so fixed or denoted, namely, one at the western corner of the erf No. 2, Longmarket Street, one at the northern corner of the erf No. 25, Longmarket Street, and one at the northern corner of the erf No. 56, Longmarket Street, and of the said blocks or divisions of land and of the streets or other public ways thereof, which plan is filed in the office of the Town Clerk of the said city, and a copy whereof is also filed in the office of the Surveyor General of Natal, signed by the said Government Surveyor George Pigot Moodie, and it is desirable that such plan should, for the purposes aforesaid, be established as the recognised general plan of the said city:

AND WHEREAS, from such above referred to causes, various blocks, lots, or erven, and other existing divisions of said lands, have been found, on such re-survey, to be incorrect and erroneous, and, in many

(A) Aug. 7, 1866.

(B) This Law is amended by Act 39, 1898, post.

instances, to exceed the extent of land specified in the diagrams and titles thereof, and in other instances, the assumed boundaries of such blocks or divisions are found to overlap each other, or encroach on the streets or public ways of the said city:

Private Law,
1866.

AND WHEREAS much injury and inconvenience have been occasioned, and probable litigation is likely to arise if these excesses of extent or area and irregularities or defects, and such uncertainty of boundaries and other evils are not satisfactorily and summarily dealt with and remedied, and it hath therefore become expedient to confer upon the said Council, assisted by other qualified assessors or other legally constituted authorities, certain powers and jurisdiction for the arbitration and adjudication of, and for the purpose of determining and settling all questions respecting any such boundaries of the said streets or other public ways, and blocks and other divisions aforesaid, and to provide, if occasion shall arise, for the awarding a fair compensation in regard thereto:

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

1. That the general plan of the said City of Pietermaritzburg, now filed in the Town Clerk's office, and Surveyor General's office, and signed by the said Surveyor, George Pigot Moodie, shall be, and the same is hereby declared to be, the recognised and established general plan of such city, and the various beacons already fixed, and situate as described in the preamble of this Bill, and any such as shall hereafter be fixed in accordance therewith, and laid down and denoted on such plan as the legal beacons, shall be, and the same are hereby declared to be, the true and permanent test beacons (A) of the said city or borough, and shall be used and regarded as such in all future surveys and apportionments and allotments of the several blocks, lots, and subdivisions of such city or borough lands, and for defining the true and precise boundaries of such streets, public ways, and of the said blocks, lots, or other divisions aforesaid.

General plan and beacons of City as filed in Town Clerk's office, to be the established plan and beacons.

2. The said blocks, lots, erven, and other divisions of said land, as so marked and denoted on the said plan, and so ascertained by such re-survey, shall be deemed to be the correct and true sites of the blocks, plots, lots, and other subdivisions of the said city or borough lands.

The blocks, erven, &c., on plan declared to be correct.

3. [Repealed by Act No. 39, 1898.]

4. It shall be the duty of the Council in every year, so soon after each yearly election of Councillors as may be conveniently possible, to select, nominate, and appoint out of and from their own members for the time being, two of such Councillors, who, together with the Mayor of such city or borough, and with other three assessors hereinafter provided to be appointed to act with such Mayor and selected Councillors, four of whom shall form a quorum, shall be and constitute a tribunal or court of assessors, of which the Mayor shall be chairman, and shall have a casting vote only, for the equitable adjustment, determination, and decision of all disputes and differences between the proprietors and owners and purchasers and lessees of any such blocks, lots, erven, or other subdivisions of the said lands in regard to the true and proper boundaries, extent, or area thereof; such tribunal or court to be called "The Court of Assessors of disputed lands or boundaries within the City or Borough of Pietermaritzburg" (B). And it shall be competent for His Excellency the Lieutenant

Two members of Council to be elected by Council annually as assessors, and conjoined with Mayor. These to form a Court, with three other assessors to be appointed by the Governor.

(A) See Act 39, 1898, post.

(B) See Pietermaritzburg Corp'n. v. N.L. & C. Co. 4 N.L.R. 53 and 9 N.L.R.

171, with regard to the jurisdiction of this Court and the right of appeal from its decisions.

Private Law,
1866.

Governor, from time to time, and at any time, to appoint such three persons as he may deem best qualified to act as assessors with the said Councillors upon such tribunal in the adjudication of all suits, matters, or things, as by this Law specified; and also at any time, as occasion may in his judgment require, to constitute or appoint any other like assessors in the stead or place of any already appointed by him as aforesaid.

Court to be
convened by
the Mayor.

5. Such tribunal or court shall be convened by the Mayor, and shall have its sittings from time to time, as may be deemed fitting or requisite, and such court shall be empowered at its various sittings to entertain and arbitrate upon and adjudicate and decide upon all disputes and differences relating to the matters aforesaid that may be submitted to it for decision, provided any of the parties having or claiming title to any such land, or the boundaries thereof, shall have, not less than one month previously to the holding of any such tribunal or court, signified in writing, under their signature, or by the signature of their duly appointed agent, their desire that any such dispute or difference shall be submitted to it for decision or adjustment, whether as relates to the boundaries or extent or area of such lands, or for the assessment of value, compensation, or rental, in regard thereto.

Party wishing
dispute
adjusted must
give a month's
notice in
writing.

Decisions of the
Court to be
based upon the
said plan and
beacons.

6. The several decisions, adjustments, and determinations, of such tribunal or court in regard to the matters aforesaid, shall be based upon and made in accordance with the said re-survey and general plan of the said city herein above referred to, and with the beacons so fixed or so laid down or denoted as aforesaid.

Court to frame
rules for
conduct of
proceedings.

7. The said court or tribunal are hereby empowered to frame and make all such rules and regulations as may be necessary for the institution and conduct of all proceedings before it, as well in respect to the forms of process to be issued by its authority, as to the determination of all fines or penalties to be incurred through any non-compliance therewith, and manner of levying the same, and all other matters and things connected with such proceedings; subject however to all such rules and regulations being first sanctioned by the Lieutenant Governor and published in the "GOVERNMENT GAZETTE" of this Colony.

Evidence and
witnesses.

8. All evidence before the court shall be taken in writing, and all witnesses and holders of documents shall be examined upon oath to be administered by the chairman of such court, and subject to the pains of perjury as in other cases of trial or adjudication, and in accordance with the law or rules of evidence existing or established in this Colony.

Where buildings
erroneously
erected, Court
may adjudge
portions of land
upon compensa-
tion.

9. The said court of assessors shall in all cases on which it adjudicates have power, in cases where buildings, not including overhangings of roof, are already erroneously or wrongfully erected (A) according to the present re-survey on others' lands or otherwise, to adjudge portions of any adjoining lots or subdivisions thereof to any other adjoining lots or subdivisions, or to the proprietor thereof, either permanently, as in freehold, upon payment, by the owner or owners of such buildings so erroneously or wrongfully or otherwise erected, of an ascertained and just value, for the extent of land whereon such buildings are erected, or as by way of demise for a limited term or term of years at a fair annual rental, to be thereupon in each case by the aforesaid court fixed and determined. And thereupon either of the said parties may apply summarily to the Supreme Court of the Colony for confirmation by a sentence or decree of any and every such decision and award, and to decree the performance thereof accordingly.

Confirmation
of award by
sentence of
Supreme Court.

(A) See *In re Ireland v. Freeman*, 5 N.L.R. 62.

10. Upon the making by the Supreme Court of any such decree, the Town Council of the Borough of Pietermaritzburg shall cause said adjudged parcel of land to be laid off on the general plan of the said borough, authorised by this Law, in the office of the Surveyor General and in the Town Clerk's office.

Private Law,
1866.

Lands so
adjudged to be
laid off on
general plan.

11. In any case in which the Supreme Court shall, upon cause shown, not see fit to confirm the award or decision of said court of assessors, then the case shall be thereupon remitted to said court for its reconsideration and amendment, or for such other order therein as the circumstances of the case may warrant.

Supreme Court
may remit cases
back to
assessors'
Court.

12. In all cases where the owner of any next adjoining lot or division so to be dealt with by the said tribunal shall be absent from the Colony or otherwise not duly represented therein, it shall be necessary for the said tribunal before proceeding to any adjudication as aforesaid, to give notice in the "GOVERNMENT GAZETTE" once a month for a period of six calendar months then next preceding; and in all other cases to cause notice to be so published for a period of one month previous to the said tribunal entering on any of the matters aforesaid; and its decisions thereupon so given shall be final and conclusive on all parties.

Procedure
where owner
of land absent
from Colony.

13. In all cases of encroachment of buildings on the streets or public ways of the said city or borough by projections on the true lines thereof, not dealt with by the Corporate Council under the provisions of section No. 58 of the Corporate Law No. 21, 1862 (A), it shall be competent for the said Council to have the same dealt with and adjudicated under this Law as and when the said Council may think fit, upon due notice, in accordance with the provisions of the preceding clause, of any such intent given to the owner or claimant or proprietor thereof.

Court of
assessors may
adjudicate on
cases of
encroachments
on streets.

14. No suit or action at law shall lie or be maintainable in any Court of this Colony by any owner or lessee of any lot or erf or subdivision thereof on the ground of alleged trespass thereon by building, digging, planting, or the like, by any owner or lessee of any adjoining lot, erf, or subdivision until such first mentioned owner or lessee shall have first referred the matter in dispute to the said tribunal; and such tribunal shall thereupon have decided as provided by this Law.

No action in
cases of
trespass by
building &c.,
unless com-
plainant shall
first apply to
Court of
assessors.

15. Whenever through alleged overlapping or trespass of adjoining lots or subdivisions of land, difference may arise between the owners thereof in respect thereto, and such owners shall express their intention and desire in writing to the Mayor of said Borough, to settle and arrange such differences between themselves without recourse to the other provisions of this Law, then the Mayor shall cause the Town Surveyor to point out to the said owners the several boundaries of their properties in accordance with the re-survey authorised under this Law, free of charge; and shall also cause any alteration or change in the area thereof to be marked off on the general plans as provided for in clause No. 10 of this Law.

Mayor of
borough may
settle disputes
by consent of
parties.

16. For the purposes of this Law, the term "Mayor" shall include Acting Mayor.

"Mayor"
includes Acting
Mayor.

17. This Law shall be deemed to be a Public Law, and shall have effect from and after the date of promulgation thereof in the "GOVERNMENT GAZETTE" (B).

Commencement

(A) See Law 19, 1872, s. 2, tit. "MUNICIPAL CORPORATIONS."

(B) Aug. 7, 1866.

Law No. 16, 1878.

“ To cancel and remove a certain servitude attaching to a certain piece of land, now the property of the Colonial Government.”

[9th September, 1878.]

WHEREAS under and by virtue of the provisions of the one hundred and thirty-second section of “ The Municipal Corporations Law, 1872,” the Corporation of Pietermaritzburg, on behalf of the Mayor, Councillors, and Burgesses of the said Borough, did on the Nineteenth day of November, 1873, alienate, cede, and transfer in freehold, to and on behalf of the Colonial Government of Natal, for the purposes of a Public Lunatic Asylum and no other, a certain piece or parcel of land, being the lot laid off and marked No. 205 on the diagram of the Town Lands of Pietermaritzburg, and more fully described in the deed of transfer passed before the Registrar of Deeds on the day above mentioned :

AND WHEREAS, the Colonial Government of Natal have purchased from the Mayor, Councillors, and Burgesses of Pietermaritzburg a certain other piece of land, being the lot laid off and marked No. 301 on the diagram of the Town Lands of Pietermaritzburg, in extent 27 acres 3 roods 8 perches and 136 square feet, and more fully described in the deed of transfer thereof in favour of the Colonial Government, passed before the Registrar of Deeds on the 26th day of January, 1878 :

AND WHEREAS, it has been found more convenient that the said Lot No. 301 of the Town Lands and the upper portion of the Lot No. 205 should be devoted to the purposes of a Public Lunatic Asylum, and such land is now being used in furtherance of such object :

AND WHEREAS, the Mayor, Councillors, and Burgesses of the Borough of Pietermaritzburg have agreed and consented to cancel and destroy the servitude created as aforesaid in regard to certain 35 acres of the Lot 205 of the Town Lands of Pietermaritzburg :

BE IT THEREFORE ENACTED by the Lieutenant Governor of the Colony of Natal, by and with the advice and consent of the Legislative Council thereof, as follows :—

Servitude of Lot 205 of Pietermaritzburg Town Lands cancelled as to portion thereof.

1. The trust or servitude created in and by virtue of the Deed of Transfer of the 19th November, 1873, of the Lot 205 of the Town Lands of Pietermaritzburg transferred to the Colonial Government of Natal for the purposes of a Public Lunatic Asylum and no other, is hereby cancelled and removed in regard to the portion marked green of the said Lot 205 upon the diagram thereof filed in the offices of the Surveyor-General and Registrar of Deeds of this Colony, and upon the diagram attached to the deed of transfer of the said Lot 205 above referred to; the said portion green so marked off as aforesaid, being in extent 35 acres more or less. And the Colonial Government and their assigns shall hold and enjoy said land, in extent 35 acres more or less, freed and discharged from the said trust or servitude, created by the Deed of Transfer of 19th November, 1873, and thereby imposed on the said piece of land.

Indemnity to Mayor, &c.

2. The Mayor, Councillors, and Burgesses of the said Borough of Pietermaritzburg are hereby freed and held harmless in respect to the said cancellation, and discharged from all liability from having agreed to the same.

Commencement

3. This Law shall commence and take effect from and after the date of the promulgation thereof in the “ GOVERNMENT GAZETTE ” (A).

(A) Nov. 26, 1878.

Law No. 23, 1880.

“ To authorise and empower the Town Council of the City and Borough of Pietermaritzburg to dispose of, by Public Auction, a certain portion of the Public Outspan No. 3, in the said Borough, and to substitute a certain other portion of the Town Lands of the said City as a Public Outspan in place thereof.”

[30th December, 1880.]

WHEREAS by Deed of Transfer bearing date the 20th day of February, 1879, a certain portion of the Town Lands of the said Borough, near to the Railway Station, in extent 188 acres 1 rood and 9 perches, and numbered “ 3 ” on the general plan of the said City, has been reserved in favour of the Mayor and Councillors of the said City and Borough and to their successors in office, in trust inalienable as an outspan or grazing ground for the use of travellers and Burgesses of the said City :

AND WHEREAS the Mayor and Councillors of the said City and Borough are desirous of disposing of, by Public Auction, a certain portion of the said Outspan in extent 15 acres 2 roods and 33 perches, and of substituting as a Public Outspan in lieu thereof a certain portion of the Town Lands situate and being to the North-west of the said Outspan No. 3, and being in extent 31 acres 1 rood and 26 perches :

AND WHEREAS plans of the existing Outspan and of the proposed substituted Outspan have been deposited in the office of the Clerk of the Legislative Council, setting forth the whole of the lands affected by the passing of this Law :

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

1. It shall and may be lawful for the said Mayor and Councillors with the consent, in writing, of the Governor to dispose of, in one or more lot or lots, by public auction a certain portion of the before-mentioned Outspan No. 3 adjoining the Railway Station, containing 15 acres 2 roods and 33 perches, and bounded North-west by the remainder of the said Outspan, North-east by a street, South-west by the soldiers' gardens and the said Outspan, and otherwise by the Town Watercourse, and to transfer the said portion of the said Outspan No. 3 in Freehold to the purchaser or purchasers thereof.

Council empowered to dispose of certain portion of Outspan No. 3.

2. In lieu of the said portion of the said Outspan No. 3 as above described, there shall, prior to such sale, be substituted and transferred a certain portion of the said Town Lands of the City of Pietermaritzburg in extent 31 acres 1 rood and 26 perches, to the North-west of and adjoining the said Outspan No. 3, to be used and appropriated in perpetuity as a Public Outspan.

and to substitute a piece of land adjacent thereto, for use as a public outspan.

3. This Law shall commence and take effect from and after the promulgation thereof in the “ NATAL GOVERNMENT GAZETTE ” (A).

Commencement

Law No. 10, 1881.

“ To repeal the Pietermaritzburg Corporation Loan Law, No. 28, 1880, and to empower the Town Council of the Borough of Pietermaritzburg to raise moneys not exceeding One Hundred Thousand Pounds (£100,000) sterling.”

[20th December, 1881.]

WHEREAS the Corporation of the Borough of Pietermaritzburg are desirous of constructing certain Public Works described in the

(A) Jan. 11, 1881.

Law 10, 1881. Schedule hereunto annexed at an estimated cost of One Hundred Thousand Pounds (£100,000) sterling, and for these purposes it is expedient to enable and empower the Town Council of the said Borough to raise a loan to the said extent on security of the portion of the unappropriated Town Lands of the said Borough now in the possession of the said Corporation, and hereinafter described, or the proceeds of the sale thereof:

AND WHEREAS the said Town Council were authorised by Law No. 28, 1880, to borrow Fifty Thousand Pounds (£50,000) sterling for some of the purposes contemplated by this Law:

AND WHEREAS no moneys have been borrowed under the said Law:

AND WHEREAS certain moneys have been borrowed by the said Borough under the Loan Laws of 1864 and 1866, in amount Fifty Thousand Pounds (£50,000) sterling, being the full amount authorised by the said Law, on the security, by way of first charge, of the Town Lands and the General Revenue of the said Borough, and of the Sinking Fund contemplated by the said Loan Laws of 1864 and 1866:

AND WHEREAS the funds of the said Sinking Fund, and the securities in which the said Sinking Fund are invested exceed in amount the sum of Fifty Thousand Pounds, borrowed under the said Loan Laws of 1864 and 1866, being in all the sum of £54,085 4s. 9d.:

AND WHEREAS it is desirable to create a second Sinking Fund, in manner as hereinafter provided, as Security for the Loan of One Hundred Thousand Pounds (£100,000) to be borrowed under the provisions of this Law:

BE IT THEREFORE ENACTED by the Administrator of the Government of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

Repeal.

1. The Law, No. 28, 1880, entitled Law "To empower the Town Council of the Borough of Pietermaritzburg to raise moneys not exceeding the sum of Fifty Thousand Pounds (£50,000) Sterling" shall be, and the same is hereby repealed.

Council may raise £100,000 on debentures.

2. It shall be lawful for the Town Council of Pietermaritzburg to raise and take up by public competition or otherwise upon Debentures, or such other like instruments, such sum or sums of money, not exceeding in the whole One Hundred Thousand Pounds (£100,000) sterling, as may be required for the purposes hereinbefore mentioned.

Interest not to exceed six per cent.

3. Every debenture, or other like instrument issued under this Law may bear any interest not exceeding Six Pounds sterling for every Hundred Pounds sterling per annum, and such interest shall be payable at such times and places as may in such debenture, or other like instrument, be covenanted and agreed to.

Sums due under this Law charged upon certain Town Lands and upon Sinking Fund.

4. All sums of money which may become due and owing under this Law, together with interest thereon, are hereby charged, subject to the operation of the Loan Law of 1864, upon the two-thirds of the portion of the unappropriated Town Lands of the Borough of Pietermaritzburg, in possession of the said Corporation, in extent 17,167 acres, 1 rood, and 37¼ perches, more or less, bounded northwards by Government Lands now sub-divided; southwards by the Zwaartkop Location, "Plessis Laager," and Byrne's Immigrants' Allotments; eastwards by the farms of Short and Lamond, the New England Estate and the Church Mission Lands; and westwards by Grobbelaar's Farm, and Lots 34 and 35 of the said Town Lands, or the proceeds of the sale of said Lands, and also upon the Sinking Fund created by this Law.

Time of re-payment.

5. All debentures or other like instruments issued under this Law shall provide for the payment of the moneys thereby made payable within a period not exceeding Fifty Years from the First day of January, 1882.

6. The said Town Council shall, half-yearly, on and after the First Day of July, 1882, appropriate and set apart the whole of the proceeds of such portion of the Town Lands, described in Clause 4 of this Law, as may have been sold during the preceding half-year, in order to form a Sinking Fund for the purposes of this Law. Law 10, 1881.
Sinking Fund.

7. The Town Council shall, from time to time, appoint three persons as Trustees for the purpose of the said Sinking Fund, and shall, from time to time, nominate and appoint other fit persons to fill casual vacancies in the number of Trustees occasioned by death or otherwise, so that the number of Trustees may never be less than three. Appointment of Trustees for purposes of Sinking Fund.

8. The Town Council shall pay over to the Trustees for the time being, all sums of money the proceeds of the lands mentioned in Clause 4, and the said Trustees shall accumulate the same to form a Sinking Fund for the purposes of this Law, and shall invest the said sums and all resulting income thereof in the Public Debt of the Imperial Government of Great Britain or of the Government of any Colony or Dependency of Great Britain, or in the debentures of any Municipal Corporation in British South Africa. Sinking Fund, how formed,

and invested.

9. The Trustees may from time to time apply any part of the Sinking Fund in the purchase of debentures issued under the authority of this Law, and all such debentures or other like instruments so purchased, and the interest coupons attached thereto, shall be immediately cancelled by the said Trustees, and when so cancelled shall be filed in the Town Office. Subject to this power of applying the same, 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 or other like instruments payable thereout. Purchase of debentures out of Sinking Fund.

Re-payment of principal moneys from Sinking Fund.

10. All debentures or other instruments issued under the authority of this Law shall rank "pari passu" and without priority. Debentures to rank *pari passu*.

11. It shall be lawful for the Town Council subject to the operation of the Loan Laws of 1864 and 1866, to sell, and the Town Council shall from time to time sell, by public auction, and transfer to the purchaser or purchasers thereof, so much of the Town Lands mentioned in Clause 4 as may be requisite for the purpose of raising either the whole or part of the funds necessary to meet the requirements of this Law. Council may sell Town Lands,

12. Whenever the Town Council of the Borough of Pietermaritzburg shall deem it expedient to sell any of the Town Lands under the powers or provisions of this Law, it shall be lawful for such Council to stipulate that any such sales shall be on the terms and conditions of the payment of the purchase prices thereof, either in whole or in part, at such periods, and by such instalments or portions thereof, and at such rates of interest as may from time to time be determined upon by the Council for the time being: Provided that the periods of payment of such purchase prices or instalments, or portions thereof, shall not extend beyond the period of Fifty years contemplated by this Law for the repayment of the Loan raised hereunder. and may stipulate for certain conditions.

13. Upon any and every such sales as aforesaid, the respective purchase prices, or any portions or parts thereof, which, on the grant of transfer of any such land so sold, shall be or remain unpaid, shall, together with the interest to become due thereon, be a first charge on the respective lands and properties so sold, and be secured by preferential mortgage thereon, and shall be further collaterally secured by the respective bonds of the purchasers thereof, bearing even date with the deeds of transfer thereof, for the respective sums so to become payable, and the same shall be so taken, with or without other collateral security, as the said Town Council, on each or any such sale, may deem expedient. Purchase price unpaid, how to be secured.

Law 10, 1881.

Registration of mortgage bonds, &c.

14. All mortgage bonds and other securities granted under the provisions of the 13th Section of this Law shall be duly registered according to law, and shall specify that the same are so granted for the purposes aforesaid, and that the moneys thereby to be secured are applicable to the repayment of the moneys borrowed by the said Town Council, upon the debentures or securities aforesaid.

Redemption of lands from bonds or mortgages.

15. All and every the purchasers of any such lands may, at any time during such periods, redeem the said lands from any such bonds, mortgages, and other charges thereon, by payment unto the said Town Council of the respective purchase prices, or balance of purchase prices thereof, with all interest then due or accruing due thereon, and of a further sum equal to one-half year's additional interest as aforesaid, calculated from the respective period of each such respective payments or liquidations as aforesaid.

Council may lease Town Lands conditionally.

16. It shall be lawful for the said Town Council of Pietermaritzburg to grant Leases under the Municipal Corporations Law, 1872, of any of the Town Lands hypothecated or charged with payment of debentures, sinking fund, and interest on said debentures raised under this Law, without the consent thereto of the holders of debentures or other securities issued under this Law; so as upon every such lease there be reserved and made payable during the continuance thereof respectively the best yearly rent that can be had for the same without taking or receiving any sum or sums of money or other consideration for or in respect of any such leases by way of foregift or bonus: And provided that the said Town Council are hereby required to apply the rents thence accruing for any of the purposes authorised by or required under this Law.

Application of moneys.

17. All moneys raised under and by virtue of this Law shall be applied to some or other of the purposes mentioned in the Schedule to this Law, and to those alone.

Commencement and short title.

18. This Law shall be taken to be a public Law, and shall be in force on and after the publication thereof in the "NATAL GOVERNMENT GAZETTE," and shall be cited as the "City Corporation Loan Law of 1881" (A).

SCHEDULE.

Schedule.

Waterworks.
Public Buildings.
Other Public Works.

Law No. 47, 1884.

"To amend and extend in certain respects the provisions of the Municipal Corporations Law, 1872, in so far as regards the City and Borough of Pietermaritzburg."

[8th November, 1884.]

WHEREAS by the Municipal Corporations Law, 1872, Section 52, power and authority are given to the Municipal Corporations constituted thereunder, including the Town Council of the City and Borough of Pietermaritzburg, to make any tramways, roads, streets, and bridges, and to excavate, construct, and lay watercourses, waterpipes, conduits, sluices, dams, reservoirs, drains, and other like works within the limits of the Borough and to keep the same in repair:

(A) Dec. 28, 1881.

AND WHEREAS the Town Council of the City and Borough of Pietermaritzburg has already expended a sum of upwards of (£50,000) Fifty Thousand Pounds Sterling in waterworks, and it is estimated that the same when completed will have cost a sum of (£60,000) Sixty Thousand Pounds Sterling: Law 47, 1884.

AND WHEREAS the Loan Law No. 10, 1881, under which these moneys have been raised imposes the whole burden of interest upon the yearly revenue of the Corporation:

AND WHEREAS it is desirable that the Council of the City and Borough of Pietermaritzburg should be invested with ample and complete powers to levy water rates within the City:

AND WHEREAS in order to increase the sinking fund by sales of land under Loan Law No. 10, 1881, and the exchange being otherwise desirable, and for the convenience of the burgesses of the said City and Borough it is expedient that the said Council should be authorised and empowered to exchange certain park lands for other lands within the Borough, and that the Trustees of the said Park Lands should be empowered to co-operate in such exchange, to wit:—

- (a) A certain piece of land in extent 6 acres on the North bank of the River Umsundusi, bounded N.W. by Prince Alfred Street, S.W. by West Street, and on other sides by the River.
- (b) A triangular shaped piece of land in extent about 27 acres, situate at the South East corner of the Park, and outside the present fence, bounded Eastwards by the remainder of the Park, and on all other sides by Town Lands (the present road to Richmond passes through this piece).

For

- (c) A piece of land in extent 20 acres 1 rood and 15.7 perches, being Lot No. 502 of the Town Lands of Pietermaritzburg, bounded N.W. by Town Lands, N.E. by road, S.W. by Lot 301, and S.E. by Lot 476, and to be known as the Northern Park.
- (d) A piece of land of not less extent than 50 acres situated near the Railway Extension, about two miles Westward of the City, and bounded S. by a reserve of 100 feet on the Town Lands boundary, E. by Lots 228 and 365 and the Railway, and W. and N. by Town Lands, and to be known as the Albany Park:

AND WHEREAS on 24th January, 1863, the Colonial Government granted unto the Mayor and Councillors of Pietermaritzburg in exchange, a certain piece of land in extent 442 acres, or thereabouts, bounded on the Northward by the farm "Groenkloof," Eastward by the Town Lands, and Westward by Government Lands, and land belonging to the Estate of J. C. Byrne and J. Troy's grant, which land has been subdivided by the Corporation into 29 plots, and doubts have arisen as to the general powers and obligations of the Corporation over such land, and it is desirable that such land, and all subdivisions thereof, should be declared Town Lands of the Borough, and as such entitled to all the privileges, and liable to all the obligations appertaining to such lands, as if the same had been included in the original grant of 27th July, 1855:

AND WHEREAS, since the formation of the City of Pietermaritzburg considerable extensions have been made, and the Lands hereinafter named derive advantages from the Waterworks and otherwise alike with other portions of the City, and it is desirable to extend the boundaries of the City of Pietermaritzburg, and for that purpose to declare the following lands to be portion of the City of Pietermaritzburg:—

PIETERMARITZBURG CORPORATION—EXCHANGE OF LANDS, &c.

Law 47, 1884.

- 1. The 57 Lots into which Lot A of Outspan No. 3 has been divided.
- 2. All the lands contained between the City's present boundaries and the Umsundusi River, the Dorp Spruit, and the Ordnance Ground :

AND WHEREAS it is desirable to amend Section 72 of the Municipal Corporations Law, 1872, by increasing the number of members of the Licensing Board therein provided for, and fixing the number required to form a quorum :

AND WHEREAS by Section 110 of the said Law certain immovable property is declared exempted from rates, and it is desirable to more fully define the nature of the properties entitled to such exemption, and also to declare that such exemption shall only apply to the general rate and to any special water-rate or assessment, and not to the special tariff of charges, for water in this Law contemplated :

AND WHEREAS by Section 64 of the said Municipal Corporations Law, the said Council are empowered to define and lay down the face lines of streets, and have so done, and expended much money in kerbstones, and pathways, and pavements, and it is desirable to confer further powers on such Council with regard thereto :

AND WHEREAS plans of the existing Park Lands, and of the lands proposed to be substituted therefor, and also of the lands granted on 24th January, 1863, and of the lands proposed to be included within the City Boundaries, have been deposited in the office of the Clerk of the Legislative Council :

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

[Sections 1 to 5, inclusive, relating to water supply, are repealed by Act No. 13, 1900, infra.]

Transfer of land for park purposes, &c.

6. The Trustees of the lands now appropriated for Park purposes holding office by deed, bearing date the 17th July, 1863, are hereby empowered to cede and transfer in freehold the lands marked (a) and (b) in the preamble hereof, and to receive in lieu thereof and for Park purposes the lands marked (c) and (d), and the said Council is hereby empowered to receive transfer of said lands (a) and (b), and to give transfer for said Park purposes of (c) and (d). The said lands (a) and (b) when transferred to the Corporation shall be deemed and taken to be a portion of the Town Lands of the Borough.

Council empowered to dispose of certain lands.

7. It shall and may be lawful for the said Council and it is hereby empowered to dispose of, in one or more lots, by public auction, the properties set forth in Sub-sections A and B in the preamble hereof, and to transfer any such lot or lots in freehold to the purchaser or purchasers thereof.

Certain lands brought within the Borough boundaries

8. All rights, privileges, and obligations, now or hereafter attaching to the Town Lands of the City and Borough of Pietermaritzburg, shall attach to and be borne by the lands set forth in Schedule A annexed hereto, in the same manner as if such lands had been included in the original grant of the Town Lands, dated 27th July, 1855.

Certain lands brought within the City boundaries.

9. The lands set forth in Schedule B annexed hereto shall form part of the City of Pietermaritzburg, and be entitled to all rights and privileges, and liable to all obligations in the same manner as if such lands had been originally included within the former boundaries of the City.

- 10. } [Repealed by Act No. 38, 1896.]
- 11. }
- 12. }

Sec. 110, Law 19, 1872, amended.

13. Section 110 of Law 19, 1872, is hereby amended by the addition of the words :— " And no Church, Chapel, or other building, exclusively

dedicated to religious worship or exclusively used for education, nor any burial ground, or cemetery, nor any infirmary, hospital, charity school, or other building used exclusively for charitable purposes, nor any building, land, or hereditament, dedicated to or used for public purposes, shall be rateable, except where any private profit or use shall be directly derived therefrom, in which case the person deriving such profit or use shall be liable to be rated as an occupier" (A).

Law 47, 1884.

14. The exemptions provided in Section 110 of Law 19, 1872, and in the preceding section hereof, shall apply only to general Municipal rates and the special Water-rate provided in Section 1 hereof, and not to the tariff of charges to be made under Section 2 of this Law (B).

Exemptions not to apply to tariff of charges under sec. 2 of this Law.

15. The Council is hereby authorised and empowered to make By-laws for the protection of all kerbstones, footpaths, and pavements, requiring all persons crossing the same with carriages, carts, trolleys, or wagons, to protect and keep protected such kerbstones, pathways, and pavements, to the satisfaction of the Council, such By-laws to be subject to confirmation by the Governor, as provided in Section 75 of Law 19, 1872.

Council empowered to make By-laws for protection of footpaths, &c.

16. This Law shall only apply to the City and Borough of Pietermaritzburg, and shall be read and construed with the Municipal Corporations Law, 1872.

Application of Law.

17. This Law shall commence and take effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (C).

Commencement

SCHEDULE A.

A certain piece of land, in extent 442 acres or thereabouts, bounded N. by the farm "Groenkloof," E. by the Town Lands, and W. by Government lands and land belonging to the estate of J. C. Byrne and J. Troy's grant, which land was granted in exchange to the Mayor and Councillors of Pietermaritzburg by the Colonial Government on the 27th January, 1863.

Schedules.

SCHEDULE B.

The 57 Lots, into which Lot A of Outspan No. 3 has been divided. All the lands contained between the City's present boundaries and the Umsundusi River, the Dorp Spruit, and the Ordnance Ground.

Law No. 20, 1888.

"To provide for the creation of Pietermaritzburg Consolidated Stock, and to enable the Mayor and Councillors of the City and Borough of Pietermaritzburg to borrow a sum not exceeding Eleven Thousand Six Hundred Pounds Sterling (£11,600).

[24th October, 1888.]

WHEREAS the Mayor and Councillors of the City and Borough of Pietermaritzburg were by the Law passed in 1864 authorised to

(A) Where a building which is *per se* exempt is let for unexempted purposes it becomes liable for rates, although no profit is derived from the letting (*Y.M.C.A. v. Pietermaritzburg Corporation*, 6 N.L.R. 299). But see sec. 16, post.

(B) It will be observed that secs. 1 and 2 of this Law are repealed by Act 13, 1900, sec. 13, post, but that the provisions of the repealed sections are reproduced, *mutatis mutandis*, by secs. 8 and 9, respectively, of the repealing Act.

(C) Nov. 11, 1884.

Law 20, 1888. borrow or raise a sum of Fifty Thousand Pounds Sterling (£50,000) on the security of the Town Lands and the general revenue of the City and Borough, and the said sum was fully raised and borrowed:

AND WHEREAS by Law No. 10, 1881, the Mayor and Councillors were authorised to borrow a further sum of One Hundred Thousand Pounds Sterling (£100,000) on the security of two-thirds of the unappropriated Town Lands of the City and Borough, and the said sum of One Hundred Thousand Pounds (£100,000) has been fully borrowed:

AND WHEREAS the Mayor and Councillors are by the said Laws authorised and required to set apart and provide Sinking Funds for the repayment of the said Loans:

AND WHEREAS Loans amounting to a sum of Eight Thousand Four Hundred Pounds Sterling (£8,400) have been repaid out of the Sinking Fund provided under the Law of 1864, and a sum of Three Thousand Two Hundred Pounds Sterling (£3,200) has been repaid out of the Sinking Fund provided under Law No. 10, 1881, and applied towards the reduction of the amount borrowed under the said Laws respectively:

AND WHEREAS it is desirable and necessary in the interests of the City and Borough of Pietermaritzburg that the Mayor and Councillors should be authorised and empowered to convert and consolidate the said Loans, to release the Sinking Funds which have accumulated under the said Laws in proportion to the amounts converted from time to time, and to borrow the sum of Eleven Thousand Six Hundred Pounds Sterling (£11,600) paid out of Sinking Funds as aforesaid:

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

Short title.

1. The short title of this Law shall be the "Pietermaritzburg Consolidated Stock Law, 1888."

Interpretation of terms.

2. The words "The City and Borough" shall mean the City and Borough of Pietermaritzburg. The words "Law of 1864" shall mean the Law to empower the Corporate Council of the Borough of Pietermaritzburg to raise by Loan or otherwise, either in this Colony or elsewhere, moneys not exceeding the sum of Fifty Thousand Pounds Sterling (£50,000).

Conversion of Loans bearing Sinking Fund into Consolidated Stock without Sinking Fund by arrangement with holders of existing securities.

3. The Mayor and Councillors, notwithstanding any provision in any Law authorising the raising of any Loans for Municipal purposes, whereby it is required that any sum shall be set apart out of the funds of the Borough or otherwise to be invested as a Sinking Fund, are hereby authorised to initiate and enter into any arrangements with the holders of any such existing Sinking Fund bearing securities, whereby such securities may be converted into Consolidated Stock of the City and Borough for which no payment from the Borough Funds or otherwise to form a Sinking Fund shall be required.

Powers of Council.

4. The Mayor and Councillors shall have, and may exercise for the purposes of this Law, the following powers and authorities, or any of them:—

- (a) They may, from time to time, declare by resolution all or any of the Corporation Loans for the redemption of which a Sinking Fund has been invested or created, whether existing in the form of stock or debentures or otherwise, to be convertible into Consolidated Stock of such denomination, with such interest, not exceeding five per centum per annum, and on such conditions as they may from time to time determine.
- (b) They may create and sell any such Consolidated Stock for the purpose of raising money for redeeming any such

outstanding Sinking Fund bearing securities held for such Loans, as may be necessary. Law 20, 1888.

- (c) They may create and issue such an amount of Consolidated Stock in exchange for the Sinking Fund bearing securities held for such Loans as may be necessary, and for paying any expenses in the creation of Consolidated Stock, and otherwise carrying out the provisions of this Law on such conditions as they may determine.

5. Any conversion, so authorised, may be effected either by arrangement with the holders of existing securities, or by purchase thereof out of moneys raised by a sale of new Consolidated Stock, or partly in one way and partly in the other. How conversion may be effected.

6. Any powers by this Law conferred on the Mayor and Councillors may be exercised from time to time, and they may alter any conditions as often as occasion may require, but so that no contract or engagement entered into before the exercise of any such power, or the making of such alterations shall be prejudiced or affected thereby. Exercise of powers granted to Council.

7. Nothing in this Law contained shall authorise an increase of the capital, or of the annual charge of any Sinking Fund bearing Loans, except that where such securities exchanged for new Consolidated Stock bear a higher rate of interest than the new Consolidated Stock an additional amount of new Consolidated Stock may be created, and issued to make up the difference in saleable value between the aforesaid securities and the new Consolidated Stock. Capital or annual charge of Sinking Fund bearing Loan may be increased in certain cases.

8. All existing Loans converted under the provisions of this Law into such Consolidated Stock, and interest thereon, and all charges and expenses incurred in carrying out the provisions of this Law, or any agreements made in pursuance thereof, shall be chargeable upon, and payable out of, the rents, rates, and general revenue of the City and Borough. Converted Loans, interest and expenses chargeable on revenue of City and Borough.

9. All moneys raised upon the security of such Consolidated Stock, and all Consolidated Stock into which other Borough Loans may be converted, shall be payable within 50 years from the date of borrowing, or the date of conversion as the case may be. Moneys raised, when payable.

10. Such Consolidated Stock shall be issued by crediting the purchaser, or, in cases of conversions, the allottee, for such sum thereof as he shall purchase or be entitled to, in a register to be kept in duplicate for that purpose by the Town Clerk of the City and Borough in the City of Pietermaritzburg, and by the Agents of the Mayor and Councillors in London. Mode of issuing stock.

11. Such Consolidated Stock shall be transferable by transfer, registered by the Agents of the Mayor and Councillors in London, or by the said Town Clerk of Pietermaritzburg, and every person who shall be so credited as aforesaid in the said Register in the first instance, or to whom any transfer shall thereafter have been made, shall be entitled to require and demand of the said Agents or Town Clerk, and the said Agents or Town Clerk shall, in each case, issue a receipt or certificate stating the amount of the Consolidated Stock standing to the credit of such person in the said register. Transfer of stock.

12. In all cases of transfer of Consolidated Stock the transferor's receipt or certificate relating to stock to be transferred shall be given up to the Agents or Town Clerk, as the case may be, and in case the stock to be transferred is less in value than the stock represented by the receipt or certificate, a new receipt or certificate shall be issued to the transferor for the balance of stock not to be transferred. Stock certificates to be given up when transfer made.

13. The interest on Consolidated Stock shall be payable half-yearly on the 30th day of June, and the 31st day of December, or as soon thereafter as demand shall be made therefor by the lawful holder of such stock to such lawful holder, or his duly authorised attorney, and Interest, when and where payable.

Law 20, 1888. such payment shall be made at the Town Office in Pietermaritzburg, or at the Bank or place of business of the London Agents of the Mayor and Councillors, or such other place as may be provided for in the receipt or certificate representing such Consolidated Stock.

Council may enter into arrangements for certain purposes.

14. The Mayor and Councillors may from time to time enter into such arrangements with any person or persons as to them may seem fit, providing for all or any of the following things:—

- (a) For the registration of the Consolidated Stock in London and Pietermaritzburg.
- (b) For managing the creation, registration, and issue of Consolidated Stock.
- (c) For effecting the conversion of Loans into Consolidated Stock, and managing transfers thereof.
- (d) For paying interest on Consolidated Stock.
- (e) For issuing Consolidated Stock certificates to bearers, and as often as occasion shall require re-issuing or re-registering Consolidated Stock, and re-issuing Consolidated Stock certificates.
- (f) Generally for conducting all business connected with Stock or Loans.
- (g) For the remuneration of such person or persons as may be employed in carrying out the provisions of this Law.

Cancellation of existing securities.

15. The debentures or other form of securities issued under the Law of 1864 or the Law No. 10 of 1881, and exchanged or otherwise converted into new Consolidated Stock under this Law shall be forthwith cancelled, and the persons who now are, or hereafter shall be, trustees of Sinking Funds created in terms of either of the said Laws, shall determine what amount of the Sinking Funds held by them respectively, and created under the said Laws for the repayment of such debentures, and other form of securities shall be released, and in the determination of such question, such trustees shall take into consideration the value of the whole investments held by them on account of such Sinking Funds, the amount of debt remaining due, and such other matters as the said trustees may think fit to take into account: Provided that the Mayor and Councillors may appoint three or more Trustees for the purposes of determining on the release of the Sinking Fund invested under the said Law of 1864. No member of the Town Council shall be appointed as a Trustee for the above purpose.

Release of Sinking Funds.

Application of released Sinking Funds.

16. So much of the Sinking Funds accumulated under the Law of 1864 or the Law No. 10, 1881, respectively, as may be set free by the conversion into or exchange for new Consolidated Stock, or purchase of any debentures or other form of securities issued under the said Laws with new Consolidated Stock under this Law, shall be converted into money and paid to the Mayor and Councillors, to be by them applied in the carrying out and construction of well ascertained permanent improvements and buildings in the City and Borough.

Authorisation of Consolidated Stock Loan of £11,600 for certain purposes.

17. The Mayor and Councillors are hereby authorised to borrow and to issue new Consolidated Stock, under the provisions of this Law, for Eleven Thousand Six Hundred Pounds Sterling (£11,600), to be applied in paying a sum of One Thousand Three Hundred and Fifteen Pounds, Fifteen Shillings Sterling (£1,315 15s.), due and owing to the Council of Education of the Colony of Natal, and in or towards the erection of public buildings, and the construction of permanent improvements within the City and Borough.

In case of default of payment of interest Supreme Court may cause special rate to be levied.

18. In case the interest payable in respect of any part of the said Consolidated debt shall be in arrear and unpaid for thirty days after the time for the payment thereof, and after demand made, it shall and may 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 said City and Borough, which is now, or hereafter may be, liable to be rated for Municipal purposes under the Law No. 19 of 1872, to the intent that all arrear interest may be paid out of the proceeds of such special rate. Law 20, 1888.

19. In case the principal money payable in respect of such Consolidated Stock shall not be repaid upon demand at or after the day fixed for the payment 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 City and Borough as may be necessary for the purpose of raising and paying such principal money, and in case the proceeds of 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. In case of default of payment of principal Supreme Court may order sale of Town Lands, deficiency to be made good by special rate.

20. Nothing in this Law, and nothing done under the provisions of this Law, except by agreement, shall take away, abridge, or prejudicially affect any right or interest by way of priority, or otherwise, of any person in or to the securities granted under the Law of 1864, and Law No. 10, 1881, respectively, or in any Sinking Fund, or any remedy which any person would have had or might have exercised in respect of any such right or interest, as if this Law had not been passed. Rights already existing not affected except by agreement.

21. This Law shall commence and take effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (A). Commencement

Law No. 15, 1893.

"To authorise and empower the Mayor and Councillors of the Borough of Pietermaritzburg to construct Tramways in all or any of the streets or roads within the said Borough."

[8th July, 1893.]

WHEREAS it is desirable to increase the facilities for passenger and parcels traffic in the Borough of Pietermaritzburg, and it is expedient to authorise and empower the Town Council of the said Borough to construct and work Tramways within the boundaries of the said Borough, in order to increase and improve the present facilities, and to convey passengers and parcels thereon, and to charge fares; to grant leases of such Tramways; and to authorise the construction and working of the same, subject to the provisions of this Law:

BE IT THEREFORE ENACTED by the Governor of the Colony of Natal, by and with the advice and consent of the Legislative Council thereof, as follows:—

1. This Law may be cited as "Pietermaritzburg Tramways Law, 1893." Short title.

2. For the purposes of this Law, the terms hereinafter mentioned shall have the meanings hereinafter assigned to them, that is to say— Interpretation.

The words "Town Council" shall mean the Town Council of the Borough of Pietermaritzburg;

(A) October 30, 1888.

Law 15, 1893.

The term "Borough" shall mean the Borough of Pietermaritzburg;

"Street," "Road," shall mean the whole space reserved as such street or road, and not merely the hardened portion of such street or road.

Town Council empowered to make and use tramways on streets and roads.

3. The Town Council are hereby authorised to make, work, maintain, and use Tramways along all or any of the streets or roads within the boundaries of 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, and other works, and to purchase, hire, or otherwise legally acquire, by agreement, all such lands and buildings as may from time to time be found necessary for any of the aforesaid purposes.

Rails and gauge.

4. The Tramways hereby authorised shall be made upon a safe and reasonable gauge, not exceeding four feet eight and a half inches, and shall be laid and maintained in such a manner wheresoever they run across or along the portion of any road or street actually used for traffic, that the uppermost surface of the rails shall be on a level with the surface of the street or road, and shall not be open for public traffic until the same shall have been certified to be fit for such traffic by an Engineer appointed by the Governor in Council.

Nature of traffic.

5. The traffic upon such Tramways shall be confined to passengers and parcels.

Tolls and charges.

6. 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 threepence a mile, or fraction of a mile, and for parcels the rates specified in the schedule to this Law annexed, without the sanction of the Governor in Council.

Incorporation of Law 16, 1872.

7. The Lands Clauses Consolidation Law, No. 16 of 1872, is, except when expressly varied by this Law, incorporated with and forms part of this Law.

This to be the special Law.

8. For the purposes of such incorporation, this Law shall be deemed the Special Law contemplated by the Lands Clauses Consolidation Law of 1872.

Tram cars.

9. The Town Council may use, on the Tramways authorised by this Law, cars or carriages with flange wheels, or wheels suitable only to run on the prescribed rails; and, subject to the provisions of this Law, the Town Council shall have the exclusive use of their Tramways for cars or carriages with flange wheels or other wheels suitable only to run on the prescribed rails. The cars or carriages used on the

Motive power.

Tramways may be drawn by horses or other animals, or driven or propelled by steam, electricity, or other motive power. No car or carriage used on the Tramways shall extend beyond the outer edges of the wheels of such car or carriage more than twenty inches on each side.

Electric lines.

10. The Town Council shall not, in the exercise of the powers conferred by this Law, lay down any electric line, or do, or allow to be done, any other work for the supply of electricity, whereby any telegraphic or telephonic line or works of the Colonial Government is or may be injuriously affected, and before any such electric line is laid down, or work is done, within ten yards of any part of a telegraphic or telephonic line or works of the Colonial Government, the Town Council, not more than twenty-eight and not less than seven clear days, before commencing such work, shall give written notice to the Colonial Government specifying the course and nature of the work intended to be done, and the Town Council shall conform with such reasonable requirements as may from time to time be made by the Colonial Government for the purpose of preventing any telegraphs or telephones of the Colonial Government from being injuriously affected

by the said work. Any difference which arises between the Colonial Government and the Town Council with respect to any requirements so made shall be settled by an Engineer, as provided for in Clause 14 hereof, and the Town Council shall abide by the decision of such Engineer under a penalty of Ten Pounds (£10) Sterling for every day during which they shall refuse to comply with such decision.

Law 15, 1898.

11. The Town Council may make By-laws as to the following matters, whether the Tramways shall be constructed by them or not:—

Bye-laws.

- (a) The rate of speed to be observed in travelling upon the Tramways;
- (b) The distance at which cars or carriages shall be allowed to follow one after the other;
- (c) The stopping of carriages using the Tramways;
- (d) The traffic on the road or street on which the Tramways are laid;
- (e) The precautions to be adopted by the drivers and conductors of the carriages or cars used on the Tramways as regards break power and warnings.

12. 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; and for better enforcing the observance of all or any of such regulations, it shall be lawful for such Town Council to make Bye-laws for all or any of the aforesaid purposes, and from time to time repeal or alter such Bye-laws and make new Bye-laws. Any such Bye-laws made by the Town Council may impose reasonable penalties for offences against the same, not exceeding Forty Shillings (40s.) Sterling for each offence, with or without penalties for continuing offences not exceeding for any continuing offence Ten Shillings for every day during which the offence continues.

Nuisances.

13. Nothing in this Law shall take away or abridge any power to open or break up any street or road along or across which any Tramways are 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:—

Breaking up surface of streets or roads for other works.

- (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 Tramways will be interrupted, they shall (except in cases of emergency, in which cases no notices 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 unavoidable injury done to the Tramways 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

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on the Tramways 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 as aforesaid shall not execute such work so far as it immediately affects the Tramways, 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 person by reason of the existence of the Tramways in any street, or road, or place where any such mains, pipes, tubes, wires, or apparatus shall have been laid before the construction of such Tramways, shall be borne by the Town Council.

Differences between Town Council and Gas, Electric, and other Companies.

14. If any difference shall arise between the Town Council on the one hand, and any Gas, Electric, or Water Company, or any Company, body, or person to whom any sewer, drain, tube, or apparatus for telegraphic, telephonic, or other purposes, may belong, or any other Company or person on the other hand, with respect to any interference or control exercised by them or him, or on their or his behalf, or by the Town Council by virtue of this Law, in relation to any Tramways or work, or to any proceeding of any body, Company, or person, or with respect to the propriety or the mode of execution of any work relating to any Tramways, or with respect to the amount of any compensation to be made by or to the Town Council, or on the question whether any such work is such as ought reasonably to satisfy the Company, body, or person concerned, or with respect to any other subject or thing regulated by or comprised in this Law the matter in difference shall (unless otherwise specially provided by this Law) 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 expenses of the reference shall be borne and paid as the referee directs.

Obstruction of works; injury or destruction.

15. 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 defaces or destroys any property of the Town Council, he shall for every such offence be liable to a penalty not exceeding Five Pounds (£5) Sterling.

Punishment for destructive or obstructive acts.

16. If any person without lawful excuse (the proof whereof shall be 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, any thing in such manner as to obstruct any car or 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) Sterling.

Frauds by passengers.

17. If any person travelling or having travelled in any car or carriage on any Tramways 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 such car or 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 car or carriage, every person shall for every such offence be liable to a penalty not exceeding Forty Shillings (40s.) Sterling.

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18. 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 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 in due course of law.

Arrest and detention of offenders.

19. No person shall be entitled to carry, or to require to be carried, on any Tramways any goods which may be of a dangerous nature; and if any person send by any Tramways 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) Sterling 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.

Dangerous goods.

20. If any person, other than the Town Council, use the Tramways or any part thereof, with cars or carriages having flange wheels or other wheels suitable only to run on the rails of such Tramways, such person shall for every such offence be liable to a penalty not exceeding Twenty Pounds (£20) Sterling.

Penalty for unauthorised use of tramways.

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 their works, cars, or carriages, 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.

Liability of Town Council for damages.

22. The Town Council may, and they are hereby empowered to grant leases of the Tramways authorised under this Law, or any section thereof, to any Company, person, or persons, upon such terms as may be agreed upon: Provided that the consent of the Governor in Council shall be obtained before any lease is granted for a longer period than seven years.

Tramways may be leased.

23. The Town Council may by contract in writing authorise any person, persons, Corporation, or Company, to make and use Tramways within the Borough, and to exercise and enjoy all or any of the powers, rights, and privileges conferred by this Law upon the Town Council, save and except the powers conferred on the Town Council to deal with and control any such person, persons, Corporation, or Company.

Town Council may contract with persons and Corporations with respect to their rights.

24. When any such sale or lease shall have been made, or when any person, persons, Corporation, or Company, shall have been so authorised to make and use Tramways, all the rights, powers, authorities, obligations, and liabilities of such Town Council under this Law in respect of the undertaking sold, leased, or authorised, shall be transferred to, vested in, and may be exercised by, and shall attach to the person, persons, Corporation, or Company, to whom the same shall have been sold, leased, or authorised, in like manner as if such Tramways were

Powers, rights, and obligations of Council to vest in purchaser or lessee.

Law 15, 1893. constructed by such person, persons, Corporation, or Company, under the powers hereby conferred, and in reference to the same they shall be deemed to be the Town Council, subject, however, in all respects to any special agreement between the parties.

Contracts must contain certain conditions.

25. Any contract made by the Town Council authorising the construction and use of Tramways, or in respect of the sale or leasing of Tramways shall contain provisions with regard to the following matters:—

- (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 concessionaires by the imposition of penalties or otherwise;
- (d) The inspection of the Tramways or works from time to time by some person duly appointed by the Town Council;
- (e) An indemnity to the Town Council against loss or damage.

Saving of powers in regard to streets and roads.

26. Nothing in this Law shall take away any power which any Corporation, Company, person, or persons may have by Law to widen, alter, divert, or improve any street or road.

Enactment of Bye-laws.

27. All Bye-laws made in pursuance of this Law shall be passed and promulgated in the same manner as is provided for Bye-laws under Law No. 19 of 1872. All tolls, penalties and charges under this Law and all Bye-laws made as aforesaid, shall be capable of enforcement in the same manner as is applicable to contraventions of ordinary municipal Bye-laws.

Saving of public rights of traffic.

28. Nothing in this Law or in any Bye-laws made under this Law, shall take away or abridge the right of the public to pass along, or across, every or any part of any street or road, along or across which any Tramways are laid, whether on or off the Tramways, on foot, or with carriages not having flange wheels, or wheels suitable only to run on the rails of the Tramways.

SCHEDULE.

Schedule.

(a) Any one parcel, not exceeding 14lbs. in weight, carried by any passenger, shall be free of charge.

(b) On all other parcels, not exceeding 14lbs. in weight, the Town Council shall be entitled to charge Sixpence for each parcel:

(c) Provided that the Town Council shall not be competent or compellable to carry for hire any parcel of greater weight than 14lbs.

Law No. 18, 1893.

“To authorise and empower the Mayor and Councillors of the Borough of Pietermaritzburg to issue licenses to persons resident within the Borough of Pietermaritzburg who shall within the limits of the Borough use or employ carriages for private convenience, and to charge for such licenses.”

[12th July, 1893.]

WHEREAS by Section 127 of Law 19 of 1872, it is enacted that Main Trunk Roads running through the Boroughs of Pietermaritzburg and Durban, except as to the portion thereof within the limits of the City of Pietermaritzburg and Town of Durban respectively, and commonly known as the streets of such Boroughs, shall, as from the First day of January, 1873, be made and maintained by, and be under the management and control of, the Colonial Government:

AND WHEREAS it is expedient to assist the Mayor and Councillors of the Borough of Pietermaritzburg to improve, repair, and maintain in repair the roads or streets within the limits of the said Borough of Pietermaritzburg, and for that purpose to authorise the Town Council thereof to issue annually licenses to persons resident within the Borough keeping carriages and using the same in the said Borough, and to charge for such licenses: Law 18, 1893.

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

1. The Town Council of the Borough of Pietermaritzburg 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 in the Borough of Pietermaritzburg, who shall, within the limits of the Borough, use or employ carriages for private convenience, and to charge for such licenses for each period of twelve months the several sums mentioned and set forth in the Schedule hereunto annexed: Provided that the word "resident" in this clause and in the next succeeding clause shall be construed to mean a person who has had his or her usual place of abode in the Borough of Pietermaritzburg for a period of four months: Provided further, that all the revenue derived from such licenses as aforesaid, shall be utilised for the repair of roads and streets within the said Borough, or for payment of interest on loans to be hereafter raised for such purpose, and shall not be utilised for any other purpose whatsoever. Town Council may issue carriage licenses.

2. Any person being a resident in the Borough of Pietermaritzburg, who shall, after the expiry of one month from the taking effect of this Law, use or employ, for private convenience, within the limits of the Borough any unlicensed carriage, his property or under his control, or who shall commit any breach of any condition of the license relating to such carriage, shall be liable to a penalty not exceeding Five Pounds, to be recoverable, with costs, in the Court of the Magistrate of the City Division of the County of Pietermaritzburg. Penalty for using unlicensed carriage, or for breach of license.

3. The Town Council, subject to the regulations relating to Bye-laws contained in the Law No. 19 of 1872, shall be, and they are hereby authorised and empowered to make in terms of the said Law all necessary Bye-laws for the imposition and collection of licenses as aforesaid, and to impose a fine not exceeding Five Pounds for the infringement or contravention of any such Bye-laws. Bye-laws.

4. In case any fine, penalty, or payment ordered to be paid or made according to the provisions of this Law, and according to the intent and meaning of any Bye-law made hereunder, shall not be duly paid or made, it shall and may be lawful to levy the same by distress and sale of the goods and chattels of the party ordered to pay the same; but if there be no goods or chattels on which to make such distress and sale, then it shall and may be lawful to commit such offender to the common gaol of the Borough of Pietermaritzburg for any period not exceeding one month, unless such fine, penalty, or payment and costs be sooner paid or made. Distress for recovery of fines, imprisonment in default of goods.

5. Nothing in this Law contained shall be deemed to add to, or to prejudice or affect the powers conferred on the Town Council under or by virtue of Law No. 9, 1881 (A). Obsolete section.

6. The term "carriage" means and includes any vehicle upon springs, drawn by horses, mules, asses, or oxen, or drawn or propelled upon a road or tramway or elsewhere than upon a railway, by steam or electricity, or any other mechanical power. Meaning of "carriage."

7. From and after the date of the taking effect of this Law, the license to keep a carriage of £1 leviable under the provisions of Schedule Repeal of license under Law 38, 1884.

(A) Law 9, 1881, repealed by Act 22, 1894, tit. "MUNICIPAL CORPORATIONS."

- Law 18, 1893. A of the License and Stamp Law, 1885, shall be no longer payable by persons resident in the Borough of Pietermaritzburg and liable to pay the license payable under this Law (A).
- Commencement 8. This Law shall commence and take effect from and after the 1st January, 1894.

SCHEDULE.

Vehicles used for private conveyance and not for hire.

Schedule.	Carriages or Vehicles, four wheels, yearly license to expire on 31st December of each year	£1 10 0
	Carriages or Vehicles, two wheels, yearly license to expire on 31st December of each year	£1 0 0
	Jinrickshas exempt.	

Act No. 30, 1895.

“To authorise and empower the Town Council of the City and Borough of Pietermaritzburg to exchange a certain portion of Public Outspan No. 3, in the said Borough, for a portion of the land standing registered in the name of Her Majesty’s Secretary of State for War, and known as “War Department Land,” adjacent to the same, and to declare the land so to be acquired in exchange to be a portion of the Town Lands of the City and Borough of Pietermaritzburg, aforesaid, and to declare the land so to be transferred in exchange to Her Majesty’s Secretary of State for War to be free from all servitudes at present affecting the same.”

[24th August, 1895.]

WHEREAS by Deed of Transfer, bearing date the 20th day of February, 1879, a certain portion of the Town Lands of the said Borough, near to the Railway Station, in extent 188 acres 1 rood and 9 perches, and numbered 3 on the General Plan of the said City, has been reserved in favour of the Mayor and Councillors of the said City and Borough and to their successors in office, in trust inalienable as an Outspan or grazing ground for the use of travellers and burgesses of the said City:

AND WHEREAS the Mayor and Councillors of the said City and Borough are desirous of exchanging a portion of the said Outspan No. 3 for a portion of the land standing registered in the name of Her Majesty’s Secretary of State for War, and known as War Department Land:

AND WHEREAS the Mayor and Councillors of the said City and Borough are desirous that the portion of the land standing registered in the name of Her Majesty’s Secretary of State for War, and known as War Department Land, so to be acquired by the Town Council in exchange as aforesaid, should be declared to be a portion of the Town Lands of the City and Borough of Pietermaritzburg:

AND WHEREAS the Mayor and Councillors of the said City and Borough are desirous that the portion of Outspan No. 3 so to be transferred to Her Majesty’s Secretary of State for War in exchange as aforesaid, should be declared to be free from all servitudes at present affecting the same:

AND WHEREAS the Plans setting forth the whole of the lands affected by the passing of this Act have been lodged in the Office of

(A) The License and Stamp Law, 1885, repealed by Act 43, 1898, tit. “REVENUE.”

the Clerk of the Legislative Council, and in the Office of the Clerk of the Legislative Assembly : Act 30, 1895.

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:—

1. It shall and may be lawful for the said Mayor and Councillors, with the consent, in writing, of the Governor, to exchange a certain portion of the before-mentioned Outspan No. 3, adjacent to the land standing registered in the name of Her Majesty's Secretary of State for War, and known as War Department Land, containing 56 acres, more or less, and bounded N.W. by Outspan No. 3, N.E. by an extension of Pine Street, W. by the old Tramway, and S. by Remainder of said Outspan No. 3, for that portion of the land standing registered in the name of Her Majesty's Secretary of State for War, and known as War Department Land, in extent 61 acres, more or less, bounded E. by Outspan No. 3, N. by the Dorp Spruit, S. by Town Water Course and War Department Land, and W. by the Zwaartkop Valley Road.

Town Council may exchange a portion of Outspan No. 3 for an adjacent piece of War Department land.

2. The said piece of land so to be acquired by the said Mayor and Councillors in exchange, as aforesaid, shall form a portion of the Town Lands of the City and Borough of Pietermaritzburg, and shall be subject to all Laws which now are, or which may hereafter be, in force affecting Town Lands of the City and Borough of Pietermaritzburg.

The land acquired to form part of the Town Lands.

3. That portion of Outspan No. 3 so to be transferred in exchange to Her Majesty's Secretary of State for War, as aforesaid, shall be free from all servitudes at present affecting the same.

The land exchanged to be free from servitudes.

4. Prior to any exchange of land by this Act contemplated, the Mayor and Councillors of Pietermaritzburg shall be bound and are hereby empowered to make and maintain fit for wagon traffic, and fence in a public road along what is known as the Mayor's Walk through Outspan No. 3 to the boundary of the 61 acres of land forming portion of the Ordnance land adjoining Outspan No. 3, and through the said 61 acres until it joins the Botanic Gardens, and in addition thereto the Mayor and Councillors shall be bound and are hereby empowered to make and maintain fit for wagon traffic a deviation from the said public road across Outspan No. 3 to the Dorp Spruit Drift, on the road at present used by George Alfred Tomlinson as his means of access to Lot 372, and the adjoining Lot 353 of the Town Lands of Pietermaritzburg, alienated by the Mayor and Councillors to the predecessors in title of the said George Alfred Tomlinson.

Exchange to be preceded by the construction of a certain road.

5. This Act shall commence and take effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (A).

Commencement

Act No. 26, 1896.

"To authorise and empower the Town Council of the City and Borough of Pietermaritzburg to exchange a certain portion of the Lot No. 121 of the Town Lands of Pietermaritzburg (vested in the said Town Council for a Public Cemetery) for Lot No. 561 of the Town Lands, aforesaid, and to declare the land so to be acquired in exchange to be a portion of the Town Lands of the Borough of Pietermaritzburg, aforesaid, and to declare the land so to be transferred in exchange as aforesaid to be a Public Cemetery."

[6th July, 1896.]

WHEREAS by Deed of Transfer bearing date the 25th day of July, 1863, a certain portion of the Town Lands of the said City, and Borough,

(A) Aug. 27, 1895.

Act 26, 1896. being the said Lot No. 121, in extent 51 acres and 22 perches, has been reserved in favour of the Mayor and Councillors of the said City and Borough, and their successors in office, in trust inalienable for a public Cemetery, subject to such laws, rules, and regulations as might thereafter be made, for the use of all classes of the community :

AND WHEREAS a certain portion of the said Lot No. 121, in extent 5 acres more or less, has been used as a Cemetery :

AND WHEREAS the Mayor and Councillors of the said City and Borough are desirous of exchanging a portion of the Town Lands of the said City and Borough, viz., Lot No. 561, in extent 51½ acres, for the unused portion of the said Lot No. 121 :

AND WHEREAS the Mayor and Councillors of the said City and Borough are desirous that the unused portion of the said Lot No. 121 so to be acquired by the Town Council in exchange as aforesaid should be declared to be a portion of the Town Lands of the City and Borough of Pietermaritzburg :

AND WHEREAS the Mayor and Councillors of the said City and Borough are desirous that the said Lot No. 561 so to be transferred in exchange for the unused portion of Lot No. 121 as aforesaid should be set aside as a Public Cemetery for the use of all classes of the community :

AND WHEREAS the Plans setting forth the whole of the lands affected by the passing of this Act have 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 Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Natal, as follows :—

Authorisation
of exchange.

1. It shall and may be lawful for the said Mayor and Councillors, with the consent, in writing, of the Governor, to exchange a certain portion of the before-mentioned Town Lands containing 51½ acres, and bounded on all sides by Town Lands, and being the Lot No. 561, for the unused portion of the Lot No. 121, in extent 46 acres, more or less, bounded North by a road, East by Lot 384 and Outspan No. 3, West and South by Town Lands.

Land to be
acquired shall
be subject to all
laws affecting
Town Lands.

2. The said piece of land so to be acquired by the said Mayor and Councillors in exchange, as aforesaid, shall form a portion of the Town Lands of the City and Borough of Pietermaritzburg, and shall be subject to all Laws which now are, or may hereafter be, in force affecting Town Lands of the City and Borough of Pietermaritzburg.

Lot No. 561 to
be set aside as
Public Ceme-
tery.

3. That portion of the Town Lands of the City and Borough of Pietermaritzburg known as Lot No. 561 shall be set aside as a Public Cemetery for the use of all classes of the community subject to such laws, rules, and regulations as may be made under or in terms of Section 43 of the Municipal Corporations Law Amendment Act No. 22 of 1894.

Commencement

4. This Act shall commence and take effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (A).

Act No. 32, 1896.

"To Increase the Borrowing Powers of the Town Council of the City and Borough of Pietermaritzburg."

[8th July, 1896.]

WHEREAS the Corporation of the Borough of Pietermaritzburg are desirous of constructing certain Public Works described in the

(A) July 7, 1896.

Schedule hereunto annexed, at an estimated cost of One Hundred Thousand Pounds (£100,000) Sterling, and for these purposes it is expedient to enable and empower the Town Council of the said Borough to raise a loan to the said extent: Act 32, 1896.

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:—

1. The Short Title of this Act shall be "The Pietermaritzburg Consolidated Stock Act, 1896." Short title.
2. The Town Council 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 said works. 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 Consolidated Stock.
4. Save and except the construction of water works, no portion of the money authorised to be raised by this Act shall be spent on any of the works respectively mentioned in the Schedule to this Act until the full data relating to such respective works have been prepared by the Borough Engineer and by him submitted to and approved by the Town Council. Particulars works to be approved by Town Council.
5. 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 of priority.

SCHEDULE.

Waterworks Extensions. Schedule.
 Surface Drainage and Draining Western Vlei.
 Macadamising Roads, Kerbing, Footpaths.
 Suburban Roads and Bridges.
 Additions to Town Hall Building; and other Public Works.

Act No. 24, 1897.

"To declare the land used as a road lying between the Lots 558 and 525 of the Town Lands (City Extension) of the City and Borough of Pietermaritzburg free and discharged from the servitude of right-of-way affecting the same."

[29th May, 1897.]

WHEREAS it is expedient that the land, at present used as a road, between the Lots 558 and 525 of the Town Lands (City Extension) of the City and Borough of Pietermaritzburg should be declared free from the right-of-way at present affecting the same:

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:—

1. The land used as a road between the Lots 558 and 525 of the Town Lands (City Extension) of the City and Borough of Pietermaritzburg Removal of servitude of right-of-way.

Act 24, 1897. shall be, and the same is hereby declared free from the servitude of right-of-way at present affecting the same.

Commencement 2. This Act shall come into effect from and after the publication thereof in the "NATAL GOVERNMENT GAZETTE" (A).

Act No. 32, 1898.

"To increase the borrowing powers of the Town Council of the City and Borough of Pietermaritzburg."

[15th August, 1898.]

WHEREAS the Corporation of the Borough of Pietermaritzburg, being desirous of constructing certain public works at an estimated cost of One Hundred Thousand Pounds (£100,000) Sterling, was by Act No. 32 of 1896 authorised to borrow up to, but not exceeding, a total sum of One Hundred Thousand Pounds (£100,000) Sterling to be used for the said works:

AND WHEREAS the said sum of One Hundred Thousand Pounds (£100,000) Sterling has proved inadequate for the execution and completion of the said works, and it has become necessary for the said Corporation to borrow further moneys to complete its scheme for the permanent improvement of the City and Borough of Pietermaritzburg:

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:—

Loan of £150,000 authorised.

1. The Town Council 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 said works, in addition to the sum of £100,000 authorised by the said Act No. 32, 1896.

Issue of Stock as under Law 20, 1888.

Interest.

2. The Town Council are authorised to issue, in 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} ~~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.

Conditions precedent to spending moneys on work not specified in Act 32, 1896.

3. Save and except for the works definitely specified in the Schedule to Act No. 32, 1896, no portion of the money authorised to be raised by this Act shall be spent on any other works or in any other manner until the full data relating to such proposed works shall have been prepared by the Borough Engineer, and by him submitted to and approved by the said Town Council.

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.

Joint construction.

5. This Act, the Law No. 20 of 1888, and the Act No. 32 of 1896, with the Schedule thereto attached, shall be read and construed together as one Act, and may be cited as "The Pietermaritzburg Consolidated Stock Acts 1888 to 1898."

Short title.

(A) June 1, 1897.

Act No. 39, 1898.

“ To amend the Private Law passed in the year 1866, entitled, ‘ Law to remedy certain evils and inconveniences arising from the confusion of the boundaries of various blocks, lots, erven, or other subdivisions of lands, and of the streets and public ways within the City or Borough of Pietermaritzburg; and to sanction and legalise the re-survey and general plan of such City, and certain defined beacons; and for granting powers to adjudicate and settle disputes and differences thereon, and in regard to trespasses by encroachment on such lands, streets, and public ways.’ ”

[23rd August, 1898.]

WHEREAS by a Private Law passed in the year 1866, entitled, “ Law to remedy certain evils and inconveniences arising from the confusion of the boundaries of various blocks, lots, erven, or other subdivisions of lands, and of the streets and public ways within the City or Borough of Pietermaritzburg; and to sanction and legalise the re-survey and general plan of such City, and certain defined beacons; and for granting powers to adjudicate and settle disputes and differences thereon, and in regard to trespasses by encroachment on such lands, streets, and public ways,” it was provided by Clause 3 thereof that the Corporate Council should cause, within three months from the passing of that Law, permanent and well marked beacons, agreeing with those therein named, to be fixed and laid down at each of the four corners of the several blocks of erven within the said Borough and at all times keep the same in good and sufficient repair to the satisfaction of the Surveyor-General of the Colony :

AND WHEREAS from divers causes many of such beacons were not so laid down :

AND WHEREAS some of the test beacons referred to in Clause 1 of the said Law, and many of the corner beacons which were laid down in accordance with Section 3 of the said Law, have been, from time to time, tampered with and moved :

AND WHEREAS it is desirable that the said test beacons should be placed at recorded distances from the ascertained corners of the blocks at which they were originally placed, and that in place of beacons being fixed and laid down at the corners of the several blocks of erven within the Borough, as provided for in Section 3 aforesaid, they should be placed at duly recorded distances therefrom :

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 :—

1. The Town Council of Pietermaritzburg shall be and are hereby authorised, with the approval of the Surveyor-General of the Colony, to lay down beacons at recorded distances from the ascertained true western corner of the Erf No. 2, Longmarket Street, the ascertained true northern corner of the Erf No. 25, Longmarket Street, and the ascertained true northern corner of the Erf No. 56, Longmarket Street, and upon completion thereof, the true position of such beacons shall thereupon be recorded upon the general plan of the City of Pietermaritzburg, filed in the office of the Surveyor-General of Natal, and the same shall be signed by the Government Surveyor employed by the Corporation to place such beacons.

Beacons may be laid down at certain ascertained points.

Record of beacons.

2. Section 3 of the said Private Law referred to in the preamble of this Act shall be and the same is hereby repealed.

Repeal.

Act 39, 1898.

Beacons to be laid down at recorded distances from corner of blocks.

Record of such beacons.

Joint construction.

Short title.

Saving of rights.

Commencement

3. The Corporate Council shall cause, within three months from and after the passing of this Act, permanent and well marked beacons to be fixed and laid down at recorded distances from the ascertained four corners of the several blocks of erven within the said Borough, and shall at all times keep the same in good and sufficient repair to the satisfaction of the Surveyor-General of the Colony.

4. The position of all such beacons shall be forthwith recorded upon the general plan of the said Borough, filed in the office of the Surveyor-General of Natal.

5. This Act shall be construed with and form part of the said Private Law referred to in the preamble of this Act.

6. This Act shall be known as the "Pietermaritzburg Fixed Beacons Act, 1898."

7. Nothing in this Act contained shall be taken or construed to affect any rights of owners of erven or of subdivisions of erven, which rights shall be judged as if this Act had not been passed.

8. This Act shall commence and take effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (A).

Act No. 34, 1899.

"To authorise and empower the Mayor and Councillors of the City and Borough of Pietermaritzburg to transfer to themselves the Public Outspan No. 4 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."

[4th September, 1899.]

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 75 acres 2 roods 9 perches, marked No. 4 on the general plan of the said City, 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 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 the said piece of land to themselves free from all trusts and servitudes at present 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 Queen'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 beforementioned Outspan No. 4, containing 75 acres 2 roods and 9 perches, more or less, and bounded North West by a stream, South East by the portion A, and South West by Lot 267 and Town Lands, free from all trusts and servitudes at present affecting the same.

Mayor and Councillors may transfer to themselves Outspan No. 4.

(A) Aug. 30, 1898.

2. The said piece of land so to be transferred shall form a portion of the Town Lands of the City and Borough of Pietermaritzburg: Provided always that the Corporation shall have no power to alienate any portion of the land other than that required for the rectification of the boundaries caused by the deviation of the Dorp Spruit, or by the Colonial Government for Railway purposes; and provided further, that the portion of land west of Commercial Road Extension shall be set apart and dedicated as a Public Park or Recreation Grounds; the portion east of Commercial Extension and north of the Railway, shall be set apart for a Show-ground, or for other like purposes; and provided further, that the pieces of land east of Commercial Road Extension, abutting on the Railway, and fronting Victoria Road, shall be reserved solely for Railway, Municipal, or other public purposes.

Act 34, 1899.

Land transferred to form portion of Town Lands.

3. This Act shall commence and take effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (A).

Commencement

Act No. 9, 1900.

"To increase the borrowing powers of the Town Council of Pietermaritzburg."

[29th June, 1900.]

WHEREAS the Corporation of the Borough of Pietermaritzburg are desirous of augmenting the Water Supply of the Borough of Pietermaritzburg and extending the Water Supply Area at an estimated cost of £100,000, and also of constructing Tramways and otherwise developing the Corporation lands within the said Borough at an estimated cost of £75,000:

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:—

1. The Short Title of this Act shall be "The Pietermaritzburg Consolidated Stock Act, 1900."

Short title.

2. The Town Council of Pietermaritzburg are authorised to borrow up to, but not exceeding a total sum of One Hundred and Seventy-five Thousand Pounds (£175,000) Sterling to be used for augmenting the Water Supply of the Borough of Pietermaritzburg and the extension of the Water Supply Area, and for the construction of Tramways, and otherwise for developing the Corporation lands within the said Borough.

Loan of £175,000 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 Consolidated Stock.

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 prior rights to rates and revenue.

(A) Sept. 5, 1899.

Act No. 10, 1900.

“To authorise and empower the Mayor and Councillors of the City and Borough of Pietermaritzburg to transfer to themselves the “Public Outspan No. 6,” 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, and in lieu thereof to allocate a certain piece of land in extent 200 acres 0 roods 3 perches, more or less, being a certain portion of the said Town Lands to be known as Outspan No. 6A.”

[29th June, 1900.]

WHEREAS by Deed of Trust, bearing date the 20th day of February, 1879, a certain portion of the Town Lands of the said Borough, in extent 200 acres 0 roods and 3 perches, more or less, marked No. 6 on the General Plan of the said City, 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 the said piece of land to themselves free from all trusts and servitudes at present 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 :

AND WHEREAS it is desirable to sell or otherwise alienate the lands composing the said Outspan or portions thereof, and to invest the proceeds of the sale of the lands of the said Outspan, or any portion thereof, as a sinking fund for the repayment of Corporation Consolidated Stock :

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:—

Authorisation
of transfer of
outspan.

1. It shall and may be lawful for the Mayor and Councillors of the City and Borough of Pietermaritzburg, with the consent in writing of the Governor, to transfer to themselves the before-mentioned Outspan No. 6, containing 200 acres 0 roods 3 perches, more or less, and bounded N.W. by Town Lands, N.E. by Lot 266 and Town Lands, S.E. by Town Lands, and S.W. by Lot 223 and Town Lands, free from all trusts and servitudes at present 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: Provided, however, that in exchange therefor the Mayor and Councillors of the said Borough shall transfer to themselves in trust inalienable as an Outspan or grazing ground for the use of travellers and the burgesses of the said Borough, a portion of the Town Lands of the said Borough, marked “B” on the plans lodged with the Clerk of the Legislative Council and the Clerk of the Legislative Assembly, containing 200 acres 0 roods 3 perches, more or less, and bounded N.W. by Lots 494 and 493, E. by Durban Road, W. by Lot 16 and old Durban Road, and S. by Town Lands, and to be known as Outspan No. 6A.

Proviso.

Authority to
Registrar of
Deeds.

2. The Registrar of Deeds is hereby empowered to transfer the said Outspan No. 6 and the portion of land to be given in exchange

therefor to the Mayor and Councillors of the said City and Borough free of Transfer Duty thereon. **Act 10, 1900.**

3. It shall and may be lawful for the said Mayor and Councillors to sell or otherwise alienate the said Outspan No. 6, or any portion thereof, and to invest or cause to be invested the proceeds of such sales as a Sinking Fund for the repayment of Corporation Consolidated Stock, on first mortgages on immovable property in Natal, in the re-purchase of their own Debentures, or Stock, or in the Public Funds of Great Britain and its Dependencies, and may invest or cause to be invested the dividends, interest, or annual proceeds arising from such investment in the same manner as aforesaid, so that the same may be accumulated by way of compound interest.

Corporation may sell the Outspan.

4. This Act shall commence and take effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (A). **Commencement**

Act No. 13, 1900.

"To enable the Town Council of the Borough of Pietermaritzburg to supplement the Supply of Water to the said Borough with Water from the Inkwalini Spruit and the River Umsindusi."

[29th June, 1900.]

WHEREAS it is expedient to enable the Town Council of the Borough of Pietermaritzburg to supplement the Water Supply to the said Borough with water from the Inkwalini Spruit and the River Umsindusi:

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:—

1. This Act may be cited as the "Pietermaritzburg Corporation Waterworks Act of 1900." **Short title.**

2. The Lands Clauses Consolidation Law, 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.**

3. The Town Council of the Borough of Pietermaritzburg may purchase or take the lands or user of lands required for the purpose of the works and undertakings authorised by this Act, viz., Lots 300, 301, 339, 247, 304, 246, 245, 272, 306a, 306b, 266, and 305 of the Farm "Welverdient," in the County of Pietermaritzburg, lands originally granted to the Edendale Trustees, a portion of the lands belonging to the Natal Native Trust in the Zwaartkop Location, a portion of the Market Square, Edendale, a portion of the said Farm "Welverdient," presently belonging to the Edendale Trustees, and may agree with the War Department to take portions of the Ordnance Lands belonging to the War Department, or the user of such lands. **Purchase of lands authorised.**

4. 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, or if in the carrying out of the works authorised to be executed by this Act it shall be necessary to acquire any servitude or right of way over the land of any person, or to trespass on the property of any person, such person shall be entitled to recompense **Compensation for damage caused by carrying out the works authorised.**

(A) July 3, 1900.

Act 13, 1900. or compensation to be settled in case of difference as if the diversion of water, or the acquisition of the servitude or trespass, constituted a damage to the land within the meaning of the 65th Section of the Lands Clauses Consolidation Law.

Corporation authorised to draw water, &c., as shewn in plans.

5. The Town Council of the Borough of Pietermaritzburg are hereby authorised to draw water for the Borough of Pietermaritzburg from the Inkwalini Spruit and from the Umsindusi River, at any and all the point or points of intake shown on the plans filed with the Clerks of the Legislative Council and of the Legislative Assembly of Natal, and to lead such water through pipes and conduits, and to lay such pipes and conduits along the pipe-routes shown in the said plans, 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-routes, dams, reservoirs, filter beds, service tanks, and other works for the purposes of construction, examination, or repair, or other purposes of the works, and to distribute such water in Pietermaritzburg, and to do such further and other acts, matters, and things, and to exercise such further powers as may be necessary to carry out the objects of this Act.

Penalty for offences in connection with Waterworks.

6. If any person shall wilfully or negligently pollute the waters of the Inkwalini Spruit or of the Umsindusi River above any intake authorised by this Act, or any water led from the said rivers 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 said Waterworks, such person upon conviction thereof before the Magistrate having jurisdiction, shall be liable to a penalty for each offence not exceeding Ten Pounds 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 on that behalf by the Town Council of the Borough of Pietermaritzburg.

Provisions as to water rates.

7. For the purposes of the water rates authorised by this Act, Chapter XII (consisting of 20 clauses, numbered from 106 to 125 inclusive) of Law No. 19 of 1872, shall be construed conjointly with this Act.

Assessment of water rate.

8. For the purpose of raising funds to pay the annual interest, claims and other expenses arising from water supply, the Town Council is hereby empowered to impose, levy, and collect an annual rate or assessment to be called "The Water Rate," in addition to the general Municipal Rate, upon any portion of the immovable property situate within the Borough which is liable to be rated under the Municipal Corporations Law No. 19, 1872, and which portion shall be brought within 220 yards of the water service, and every rate or assessment so imposed or levied shall be of the same force and effect, and be levied and recoverable in the same manner as rates or assessments under the Municipal Corporations Law No. 19 of 1872: Provided always, that such water rate shall not exceed one-half-penny in the pound sterling on the freehold value of property as set forth in the Valuation Roll in force for the time being: and provided further that nothing in this Act contained shall interfere with the levy and collection of such water rates as were due and payable prior to the passing of this Act, which rates shall be levied and recoverable in the same manner as rates and assessments under the Municipal Corporations Law of 1872.

Not to exceed ¼d. in the £ on freehold value of property.

Tariff of charges.

9. The said Council is hereby further empowered from time to time to make and frame a tariff of charges by which the supply of water from the water mains for other than ordinary household or

domestic purposes (A) shall be regulated, and to enforce and collect the same. And the Council is hereby invested with full powers to regulate and control the manner and quantity of such water supply and to divert or stop the same when necessary. Act 13, 1900.

10. It shall be lawful for the said Council, at any meeting at which a majority of two-thirds of the members shall be present, to make and frame, from time to time, such Bye-laws as shall be deemed necessary for giving effect to the provisions of this Act, and such Bye-laws shall be submitted for the approval of the Governor as provided in Section 75 of Law No. 19 of 1873, and upon receiving the sanction of the Governor, shall have the force and effect of Law. Power to frame Bye-laws.

11. It shall be lawful, and the said Council is hereby empowered to make and enter into special contracts for the supply of water for household and other purposes to properties situate outside the boundaries of the said Borough, on such terms as may be agreed upon between the parties, but so that those paying water rates within the Borough are not thereby injured. Supply to properties outside Borough.

12. In the event of the total amount authorised to be raised under Sections 8, 9, and 11 hereof, being insufficient to pay the interest, claims, and expenses arising from the water supply, the estimated balance, if any, required shall be provided out of the general Municipal rates and revenues. Deficit to be made good out of general revenue.

13. Sections 1 to 5 inclusive of the Law No. 47 of 1884, shall be and the same are hereby repealed. Repeal.

14. This Act shall commence and take effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (B). Commencement

PILOTS.

[See Act 3, 1894, ss. 10-15, tit. "PORTS AND HARBOURS."]

(A) This sec. practically reproduces the repealed sec. 2 of Law 47, 1884, ante, under which it was held that water used for extinguishing fires by

fire engine does not come within this provision (*Pietermaritzburg Corporation v. L. & G. Insurance Co.*, 6 N.L.E. 160).
(B) July 3, 1900.

PLANTS (DISEASED)

Law No. 15, 1881.

"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."

[20th December, 1881.]

WHEREAS it is expedient to prohibit, or to regulate under certain conditions, the introduction into this Colony of any Plants or Cuttings which are either affected with some disease which it would be prejudicial to this Colony to be allowed to be introduced, or come from places where any such disease affecting them exists, or is supposed to exist:

BE IT THEREFORE ENACTED by the Administrator of the Government of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

Governor in Council may prohibit introduction of Plants, &c.

1. It shall and may be lawful for the Governor, from time to time, and at any time by and with the advice of the Executive Council, to prohibit absolutely the introduction into this Colony of any Plants or Cuttings, which are either actually affected with some disease which it would be prejudicial to this Colony to be introduced, or which come from places where any such disease exists, or is supposed to exist. Such prohibition shall be published by Proclamation in the "NATAL GOVERNMENT GAZETTE." From and after the publication of any such Proclamation any person who shall introduce into this Colony any of the articles or things, the introduction of which is prohibited in such Proclamation, shall be liable to a penalty not exceeding Twenty Pounds, or, in default of payment thereof, to imprisonment, with or without hard labour, for any term not exceeding six weeks, unless such penalty be sooner paid.

Penalty.

Governor in Council may frame and issue rules.

2. The Governor may, from time to time, and at any time, with the advice of the Executive Council, frame and issue, by Proclamation in the "NATAL GOVERNMENT GAZETTE," such Rules and Regulations as he may deem necessary, concerning the introduction of any such articles or things as in the preceding section mentioned.

Governor in Council may revoke or alter Proclamation and impose penalties.

3. It shall and may be lawful for the Governor in Council, from time to time, to revoke, alter, or vary any such Proclamation as aforesaid; and also, in and by any such Proclamation, as aforesaid, to provide that any person wilfully contravening the Rules and Regulations so published, shall be liable to a penalty not exceeding Twenty Pounds, and, in default of payment thereof, to imprisonment, with or without hard labour, for any term not exceeding six weeks, unless such penalty be sooner paid.

Offences, how to be prosecuted.

4. All contraventions of the provisions of any such Proclamation, as aforesaid, shall be prosecuted by or at the instance of the Attorney-General, at the suit of the Queen, in the usual manner, before the Supreme Court or any Circuit Court, or by a Clerk of the Peace before a Magistrate's Court.

Appropriation of penalties.

5. All fines imposed by this Law, or by any Proclamation issued thereunder, shall be paid to Her Majesty the Queen, Her Heirs and Successors, for the public uses of the Colony: Provided that the Court may, in any case, award to be paid any portion, not exceeding one-half, to any person who shall have given such information as shall have led to the detection or conviction of the offender in such case.

PLANTS (DISEASES).

2

6. This Law shall commence and take effect from and after the date of the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (A). Law 15, 1881.
Commencement

PLAY RIGHTS.

[See "COPYRIGHT."]

(A) Dec. 28, 1881.

PLEADING, PRACTICE, &c.

[See "COURTS (MAGISTRATES)"; "COURTS (SUPREME)"; "CRIMINAL LAW"; "JURIES"; and as to Judicial Sales see "MORTGAGES."]

Ordinance No. 21, 1846.

"Ordinance for amending the Law relating to the Rights of Execution Creditors within the District of Natal."

[24th September, 1846.]

Ord. 3, 1844
(Cape of Good
Hope), extended
to Natal.

WHEREAS it is expedient to extend the provisions of the Ordinance No. 3, 1844, entitled "Ordinance for amending the Law relating to the Rights of Execution Creditors," to the District of Natal; Be it therefore enacted, by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council thereof, that the clauses and provisions of the said Ordinance shall be deemed and taken to extend and apply to and to be in force within the District of Natal, precisely as if the said clauses and provisions were herein again set forth as parts or portions of this Ordinance, and applied to the said District in manner and form as the same are in and by the said Ordinance No. 3, 1844, applied to this Colony.

Commencement

2. And be it enacted, that this Ordinance shall commence and take effect from and after such date as shall be fixed and appointed for the commencement thereof by any proclamation to be by the Lieutenant Governor of the District aforesaid for that purpose issued, and posted upon or affixed to any public place in the town of Pietermaritzburg (A).

Ordinance No. 3, 1844 (Cape Colony).

"Ordinance for amending the Law relating to the Rights of Execution Creditors."

[20th February, 1844.]

WHEREAS by the law of this Colony all creditors whose writs of execution against the property of their debtor are lodged with the Sheriff, or other proper officer for executing such writs, at any time before the proceeds realised in respect of the earliest or other of such writs shall have been paid over by the said Sheriff or other officer to the party or parties entitled thereto, are entitled to rank "pari passu" upon such proceeds, and to claim that the same may be distributed amongst them "pro rata," as if the same had been levied under all the said writs collectively and without any distinction (B); And whereas this rule of law above mentioned is productive in practice of delay and inconvenience, and it is expedient to modify the same; Be it therefore enacted by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council thereof, that

Repugnant
Laws repealed.

(A) Confirmed; see *Cape Gazette*, June 3, 1847.

(B) This only applies to writs in the hands of the same officer, not to writs

issued out of different Courts (*Farman and Robinson v. Bickersteth & Co.*, 17 N.L.R. 349).

from and after the promulgation of this Ordinance, all other laws and customs heretofore in force within this Colony, in so far as the same are repugnant to or inconsistent with the provisions of this Ordinance, shall be repealed, and the same are hereby repealed accordingly. Ord. 21, 1846.

2. And be it enacted, that from and after the promulgation of this Ordinance, no creditor lodging any writ of execution with the Sheriff, or any other officer of the law proper for the execution of writs, shall be entitled to share in or receive any part of the proceeds levied under any writ or writs of execution previously lodged, unless such creditor shall have lodged his said writ within ten days from the day on which was or were lodged the writ or writs under and in virtue of which levy, in the proceeds of which such creditor or creditors' claim to share was made. Proceeds of levy under writ to be shared only where writ is lodged within ten days of that under which levy is made.

Law No. 12, 1883.

“To amend in certain cases the Law of Costs.”

[12th November, 1883.]

WHEREAS it appears to be inexpedient that in an action dismissed for want of jurisdiction in the Court in which such action is instituted, the party so instituting the action should not be liable to be ordered to pay costs:

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

1. Whenever any action, suit, application, or other legal proceeding shall fail or be dismissed by reason of the Court or other tribunal before which it shall have come, and in or by which it shall so fail or be dismissed, not having jurisdiction in respect thereof, such Court or Tribunal may order any party instituting the case to pay costs in respect of such institution to the other side; and such order shall be as effectual as any Order of such Court or Tribunal in any case within its jurisdiction. And such costs may be taxed in like manner as any other costs ordered by such Court or Tribunal. When action or other proceeding shall fail or be dismissed for want of jurisdiction, Court may order party instituting to pay costs.

2. This Law shall be in operation from and after the promulgation thereof in the “GOVERNMENT GAZETTE” (A). Commencement

Law No. 17, 1888.

“To extend the advantages of the Electric Telegraph” (B).

[24th September, 1888.]

1. Any summons, writ, warrant, rule, order, notice, or other process, document, or communication which by any Law, rule of Court, agreement of parties, or by any regulation made under the authority of this Law, is required or directed to be served upon any person, in order that such person may be affected thereby, may be transmitted by telegraph, and a telegraphic copy served upon such person, or left at his house, or place of abode, or business, shall be of the same force and effect as if the original had been shown to, or a copy thereof served upon, such person, or left as aforesaid, as the case may be. Transmission by telegraph of summons or other process.

(A) Nov. 13, 1883.

(B) See this Law in full tit. “TELEGRAPH.”

Law 17, 1888.
Rules in regard
to service or
execution of
process by
telegraph.

3. The Judges of the Supreme Court, acting in pursuance of any Law for the time being regulating the making of general rules of Court, may from time to time make and alter rules for more effectually carrying out the object of this Law in regard to the use of the telegraph for the service of any notice, process, or proceeding in any of the Courts of this Colony, or the execution of the process of any such Court.

POISONS.

[See "MEDICAL PRACTITIONERS."]

POLICE.

Ordinance No. 5, 1846.

“ Ordinance for creating Field Cornets and Constables in and for the District of Natal.”

[7th January, 1846.]

1. WHEREAS it is expedient that the Lieutenant Governor of the District of Natal, should be authorised and empowered to appoint Field Cornets and Constables to act in the said District: Be it therefore enacted, by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council thereof, that the said Lieutenant Governor shall have, possess, and exercise in regard to the District of Natal, all and singular the like powers and authorities for appointing Fieldcornets and policemen, and for fixing the limits of Fieldcornetcies, and of the bailiwicks of constables and policemen as the Governor aforesaid has and possesses in regard to those parts of this Colony other than the said District: And every Fieldcornet, constable, and policeman so appointed as aforesaid, shall be, within his ward or bailiwick, as the case may be, an officer of the law proper for the execution of criminal warrants, within the meaning of Ordinance No. 18, 1845; and shall, moreover, have and enjoy the powers and authorities, and perform the same or similar duties as those by law belonging to Fieldcornets, constables, and policemen respectively, in those parts of this Colony other than the District aforesaid.

Lieut.-Governor may appoint Field Cornets, policemen, &c.

Such persons to be officers of the law.

2. And be it enacted, that it shall and may be lawful for the Lieutenant Governor aforesaid, by any writing under his hand, to authorise any Magistrate, Justice of the Peace, or other person within the District of Natal, to appoint constables and policemen respectively, in such numbers and under such conditions and regulations as the said Lieutenant Governor shall, from time to time, fix and prescribe; and every constable or policeman so appointed shall have and possess the same powers and authorities as a constable or policeman appointed directly by the said Lieutenant Governor.

Magistrates may be empowered to appoint policemen, &c.

3. And be it enacted, that this Ordinance shall commence and take effect from and after such date as shall be fixed and appointed for the commencement thereof by any Proclamation to be by the Lieutenant Governor of the said District for that purpose issued, and posted upon or affixed to any public place in Pietermaritzburg in the said District.

Commencement

Act No. 1, 1894.

“ To Provide for the Consolidation and Regulation of the Police Forces of the Colony.”

[26th June, 1894.]

WHEREAS it is expedient to provide for the Consolidation and Regulation of the Police Forces of the Colony:

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 1, 1894.
Repeal of Laws.

1. The Laws No. 5 of 1876, No. 6 of 1878, Sub-section (f) of Section 21 of Law No. 29 of 1880, and Law No. 15 of 1888 shall be and the same are hereby repealed: Provided that—

- (a) All commissions, appointments, and enrolments under the repealed Laws shall be deemed to be commissions, appointments, and enrolments under this Act, with the right, however, to every member of a Police Force constituted under any of the repealed Laws to claim a free discharge within one month after the publication of this Act in the "NATAL GOVERNMENT GAZETTE."
- (b) The repeal shall not prejudice any right acquired, nor annul or lessen any liability incurred before the passing of this Act.
- (c) All offences against and all penalties and forfeitures incurred under any of the repealed Laws may be dealt with and enforced thereunder or under this Act.
- (d) All proceedings taken or commenced under any of the repealed Laws may be continued under this Act.
- (e) Any and all Regulations passed under any of the repealed Laws shall, save so far as they may be contrary to this Act, or any regulations thereunder, remain in full force and effect as regulations passed under this Act until altered, added to, amended, or repealed in terms of this Act.

Short title.
Interpretation.

2. This Act may be cited as the Police Act of 1894.

3. In this Act—

- "Police Force" and "Force" mean the Police Force established by this Act;
- "Officer" (A) includes the Chief Commissioner, and all Inspectors, Sub-Inspectors, and Superintendents of the Police Force;
- "Members of the Police Force" includes every person appointed or enrolled in the Police Force;
- "Policeman" includes sergeants, policemen, turnkeys, gaolers, guards, and men of subordinate rank in the Police Force;
- "Borough" means a municipal borough within the meaning of Law No. 19, 1872;
- "Township" means a township within the provisions of Law No. 11, 1881.

Establishment
of Police Force.

4. There shall be a Police Force for the maintenance of peace and order within the Colony (B) and for the prevention, detection, and repression of crime, and for bringing offenders to justice and for bringing to trial persons suspected of offending against the law and for the custody and control of prisoners.

Constitution of
Force.

5. The Force shall consist of a Chief Commissioner (C), Inspectors, Sub-Inspectors, and Superintendents commissioned by the Governor during pleasure, and of such numbers of sergeants and men as shall be sanctioned by Parliament, and a sufficient portion of the Force shall be mounted, and the whole Force shall be supplied with all suitable and necessary weapons, arms, and ammunition.

Oaths to be
taken.

6. Every officer and policeman of European descent shall take the oath of allegiance, and the official oath prescribed by the Promissory Oaths' Law of 1869.

(A) The interpretation of this word is altered by Act 37, 1898, s. 1, post. It now includes "the Chief Commissioner and all other Commissioned Officers of

the Police Force."

(B) The Act is applied to Zululand by Act 37, 1898, s. 7, post.

(C) See Act 37, 1898, s. 2, post.

7. The Chief Commissioner shall be responsible for the maintenance of the Police Force in a thorough state of efficiency. **Act 1, 1894.**
Responsibility of Chief Commissioner.
8. Inspectors, sub-inspectors, and superintendents (A) shall be departmentally subordinate to the Chief Commissioner, and shall be responsible for the efficiency and discipline of the Force within the districts assigned to them. **Responsibility of other officers.**
9. No officer shall be at liberty to resign without the consent of the Governor. **Resignation of officers.**
10. Policemen shall be enrolled by the officers of the Police Force in accordance with any regulations made in that behalf. **Enrolment.**
11. Every policeman of European descent shall be deemed to have been enrolled as a member of the Police Force for a period of Three Years from the date of his enrolment under this Act, or under any of the repealed Laws. **Term of enrolment of European policemen.**
12. No policeman shall be at liberty to withdraw from the Force, except according to the regulations made in that behalf, notwithstanding that the term of his enrolment may have expired. **Withdrawal from force.**
13. The Chief Commissioner may dismiss any policeman from the Force, subject to a review of his decision by the Governor in Council. **Dismissal.**
14. Every member of the Force shall be an officer of the law proper for the execution of criminal warrants, and shall have and exercise all such powers, authorities, privileges, and advantages, and be liable to all such duties and responsibilities as any constable or police officer now has or hereafter may have. **Powers and duties of members of the Force.**
15. The Colony may be divided into Police Districts by Proclamation by the Governor, and such districts may from time to time be altered by like Proclamations. **Police Districts.**
16. Any member of the Police Force may be from time to time removed from one district to another. **Removal.**
17. Each borough and township may be constituted a separate district or may be included in any other district. In cases where the Town Council or Town Board shall maintain a Town Police, all matters arising out of contraventions of the By-laws of the borough or township shall be dealt with by the local police, and not by the Police Force established under this Act. **Boroughs and townships.**
18. The Police Service requisite and necessary in any existing Borough or township may be furnished by the Police Force constituted under this Act in case of an agreement in that behalf being come to by the Town Council or Town Board and the Colonial Secretary. **Police Service may be furnished to Boroughs and townships.**
19. In cases where the Police Service of any borough or township shall be rendered by the Police Force constituted by this Act, it shall be lawful for the Town Council or Town Board of each such borough or township to establish a Police Committee for the purpose of regulating police affairs within the borough or township, and in such case the Police Service shall be rendered by the Police Force constituted by this Act in terms of regulations to be passed by the Town Council or Town Board, and to be approved by the Governor in Council. **Regulation of Borough and Township Police Service.**
20. In boroughs and townships where the police shall remain under the control of the Town Council or Town Board such police shall execute within the borough or township all such criminal warrants and make service of all such writs and summonses as shall be directed and handed to them on public service, and the police of a borough or township shall, as regards anything done by them in or about the execution of such criminal warrants and the service of such writs and summonses, be regarded, not as the servants or agents of the Town Council or Town Board, but as members of the Police Force hereby constituted, and each member of the Police Force of every borough and **Status and duties of Municipal Police in criminal matters.**

(A) See Act 37, 1898, s. 2, post.

Act 1, 1894. township is to be regarded as an officer proper for the execution of criminal warrants within the meaning of Ordinance No. 18, 1845.

Police Service of Boroughs and Townships hereafter established.

21. In boroughs and townships to be hereafter established the necessary Police Service shall be furnished by the Police Force constituted under this Act, notwithstanding any provisions to the contrary in Laws No. 19 of 1872, and No. 11 of 1881, and the cost of such Police Service shall be borne in such way as may be agreed to between the Government and the Town Council or Town Board.

Gaol officials.

22. The Chief Commissioner shall furnish and supply from the Police Force hereby constituted, all warders, gaolers, turnkeys, and convict guards requisite for the custody and control of prisoners in public gaols, or set to labour outside gaols, and such warders, gaolers, turnkeys, and convict guards shall be subject to the Gaol Regulations as well as to Regulations passed under this Act.

Superintendents of Gaols and Magistrates' Court Messengers.

23. The present Superintendents of the Gaols at Durban and Pietermaritzburg, and the present Messengers of Magistrates' Courts shall be members of the Force with such relative rank as the Governor may determine: Provided that no such officer shall be prejudiced as regards his status in the Civil Service or as regards the rights and privileges appurtenant to his office.

Special service.

24. [Repealed by Act No. 37, 1898.]

25. Any policeman may be placed by his superiors under the orders of any public officer for any special or general service or duty, always subject to the supervision of his own officers and to the rules in force under this Act for the maintenance of discipline in the Force.

Regulations.

26. The Governor in Council may from time to time make, alter, and repeal Regulations for any of the following purposes:—

- (a) The general government of the Police Force, and the authority and relative duties of officers and policemen.
- (b) The mode of appointment, enrolment, re-enrolment, promotion, discharge, and dismissal of members of the Police Force.
- (c) Pay, quarters, allowances, and rations, and similar matters.
- (d) Distribution and employment of the various branches of the Police Force.
- (e) Equipment, training, arms.
- (f) Discipline and efficiency.
- (g) The definition of offences against duty and discipline, and the mode of trying offences: Provided that no minor tribunal established by the regulations shall have power to impose any greater punishment than a fine not exceeding Five Pounds Sterling, or imprisonment or confinement in any station or lock-up for not more than thirty days, stoppage of pay for not more than fifteen days, dismissal of a policeman, reduction of a sergeant, or such other light punishment as may be suitable.
- (h) The constitution of Courts-martial, and the conduct of prosecutions therein.
- (i) Matters necessary for giving full effect to the objects of this Act, not otherwise specially provided for.

Promulgation of Regulations.

27. All regulations made under the preceding section shall be published in the "NATAL GOVERNMENT GAZETTE," and from the date of publication or such other date as may be specially fixed shall, so far as they may be consistent with this Act, have the full force and authority of Law.

Term of imprisonment not to count as service.

28. No period for which any member of the Police Force shall be imprisoned for any offence shall be reckoned for any purpose as part of such member's service in the Force unless otherwise directed

by the tribunal or officer by which or whom the sentence shall be passed. **Act 1, 1894.**

29. All the offences mentioned in Part I. of the Schedule of this Act committed by any member of the Police Force, and all offences against the Regulations under this Act (notwithstanding that they may be also punishable by tribunals constituted by the Regulations), shall be cognizable in and punishable according to the respective jurisdictions of the Magistrates' Courts and the Supreme and Circuit Courts. The offences mentioned in Part II. of the Schedule shall be cognizable in the Supreme Court or a Circuit Court. **Jurisdiction of Courts of trial of offences.**

30. Officers and sergeants of Police shall, when appointed to that duty by the Attorney-General, prosecute in the Courts of Resident Magistrates and attend preliminary examinations (A). **Right of prosecution in Magistrates' Courts.**

31. Nothing in this Act contained shall prevent any member of the Police Force from being prosecuted, otherwise than under the provisions of this Act in any case in which he would by Law without this Act be liable to such prosecution; but no member of the Force acquitted or convicted of any crime or offence shall be liable to be again tried for the same crime or offence. **Liability of Police to prosecution.**

32. No policeman shall be liable, by any process whatever, to appear before any Justice of the Peace or other authority whatsoever, or to be taken out of the Police Force by this Act established by any writ, summons, warrant, order, judgment, execution, or any process whatsoever, issued by, or by the authority of, any Court of Law, or any Magistrate, Justice, or Justice of the Peace, or any authority whatsoever, for any original debt not amounting to Fifteen Pounds, over and above costs of suit. But it shall be lawful for the Chief Commissioner, or any inspector, sub-inspector, superintendent, or other **Exemption of policeman from civil process in respect of debt under £15.**

Commissioner, or any inspector, sub-inspector, superintendent, or other commissioned officer (B) of the Force, to stop any sum not exceeding Two Pounds per month from the pay of a policeman towards the liquidation of any just debt owed by such policeman under Fifteen Pounds: Provided, that under no circumstances shall any debt for liquor supplied to any policeman be recognised, or his pay be liable to stoppage for the liquidation of such debt. **Remedy for recovery of debt.**

33. For the protection of persons acting in the execution of this Act, all actions and prosecutions to be commenced against any person for anything done in pursuance of this Act, shall be commenced within four calendar months after the act committed, and not otherwise, and notice in writing of such action, and of the cause thereof, shall be given to the defendant one calendar month at least before the commencement of the action (C), and no plaintiff shall recover in any such action if tender or sufficient amends have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought by or on behalf of the defendant, together with the costs incurred up to that time, and if a verdict shall be given for the defendant or the plaintiff be not suited or discontinued any such action after issue joined, or if upon exception or otherwise judgment shall be given against the plaintiff, the defendant shall recover his full costs as between attorney and client. And though a verdict shall be given for the plaintiff in any such action, such plaintiff shall not have costs against defendant unless the judge before whom the trial shall be shall certify his approbation of the action and of the verdict obtained thereon. **Total exemption from liquor debt.**

33. For the protection of persons acting in the execution of this Act, all actions and prosecutions to be commenced against any person for anything done in pursuance of this Act, shall be commenced within four calendar months after the act committed, and not otherwise, and notice in writing of such action, and of the cause thereof, shall be given to the defendant one calendar month at least before the commencement of the action (C), and no plaintiff shall recover in any such action if tender or sufficient amends have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought by or on behalf of the defendant, together with the costs incurred up to that time, and if a verdict shall be given for the defendant or the plaintiff be not suited or discontinued any such action after issue joined, or if upon exception or otherwise judgment shall be given against the plaintiff, the defendant shall recover his full costs as between attorney and client. And though a verdict shall be given for the plaintiff in any such action, such plaintiff shall not have costs against defendant unless the judge before whom the trial shall be shall certify his approbation of the action and of the verdict obtained thereon. **Prescription of action against persons acting in pursuance of this Act.**

33. For the protection of persons acting in the execution of this Act, all actions and prosecutions to be commenced against any person for anything done in pursuance of this Act, shall be commenced within four calendar months after the act committed, and not otherwise, and notice in writing of such action, and of the cause thereof, shall be given to the defendant one calendar month at least before the commencement of the action (C), and no plaintiff shall recover in any such action if tender or sufficient amends have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought by or on behalf of the defendant, together with the costs incurred up to that time, and if a verdict shall be given for the defendant or the plaintiff be not suited or discontinued any such action after issue joined, or if upon exception or otherwise judgment shall be given against the plaintiff, the defendant shall recover his full costs as between attorney and client. And though a verdict shall be given for the plaintiff in any such action, such plaintiff shall not have costs against defendant unless the judge before whom the trial shall be shall certify his approbation of the action and of the verdict obtained thereon. **Notice of action. Tender or amends.**

33. For the protection of persons acting in the execution of this Act, all actions and prosecutions to be commenced against any person for anything done in pursuance of this Act, shall be commenced within four calendar months after the act committed, and not otherwise, and notice in writing of such action, and of the cause thereof, shall be given to the defendant one calendar month at least before the commencement of the action (C), and no plaintiff shall recover in any such action if tender or sufficient amends have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought by or on behalf of the defendant, together with the costs incurred up to that time, and if a verdict shall be given for the defendant or the plaintiff be not suited or discontinued any such action after issue joined, or if upon exception or otherwise judgment shall be given against the plaintiff, the defendant shall recover his full costs as between attorney and client. And though a verdict shall be given for the plaintiff in any such action, such plaintiff shall not have costs against defendant unless the judge before whom the trial shall be shall certify his approbation of the action and of the verdict obtained thereon. **Costs.**

(A) See Act 22, 1896, s. 31, tit. "Courts (MAGISTRATES)," which is amended by Act 3, 1900.

(B) See Act 37, 1898, s. 2, post.

(C) If, in an action in the Magistrate's

Court, this notice is not given and no objection is taken, the Supreme Court will not admit the objection, but will hold it to have been waived; see *Vinden v. Jones*, 20 N.L.R. 181.

Act 1, 1894.

Selling or disposing of equipments.

34. No member of the Force shall sell, pledge, or otherwise dispose of any horse, saddlery, arms, ammunition, clothing, equipment, or other articles which by the Regulations of the Force for the time being he shall require to keep and possess, and every sale, pledge or other disposition of any of the matters aforesaid shall be null and void.

Punishment for being party to sale or disposal of equipments.

35. Any person who shall be a party to any sale, pledge, or other disposition referred to in the preceding section by any policeman then known to be such by such party, or who at the time of such transaction shall be dressed wholly or partly in anything that is then distinctive of police uniform, shall be liable to prosecution in respect of being so a party, and on conviction to be fined in a sum not exceeding Twenty Pounds, and in default of immediate payment of such fine, to imprisonment, with or without hard labour, for any period not exceeding three months (A): Provided always, that any person who shall receive, or be a party to receiving the subject matter of any such sale, pledge, or disposition as in this section above referred to, then knowing the seller, pledger, or disposer was, when doing so, a policeman, or dressed wholly or partly in police uniform, shall be deemed to be such party to a disposition as is first referred to in this section.

Forfeiture of things illegally disposed of.

36. When any transaction in respect to anything shall be null and void under the said 34th section as explained by this Act, such thing shall thereby become forfeited to the Colonial Government discharged from any claims in respect thereof of any person, and application may be made on behalf of the said Government to any Resident Magistrate having jurisdiction in respect of the place where such thing may then be to order delivery thereof to any person on behalf of the said Government at its expense.

Animals and things exempted from seizure.

37. No animal, article, matter, or thing, mentioned in the thirty-fourth section of this Act, and therein forbidden to be sold, pledged, or otherwise disposed of, shall be capable of being seized or attached by or under any writ of execution which may be sent out against any member of the said Force, nor shall the same pass by or under any order made for the sequestration of the estate of any such member.

Illegal possession of Police property.

38. If any person not being a member of the Police Force shall have in his possession any horse, saddlery, arms, ammunition, equipment, clothing or other article supplied to or required to be in possession of any member of the Force, and shall not be able satisfactorily to account for his possession thereof, or shall put on or assume the dress, name, designation, or description of any member of the Force or shall pretend or assert that he is a member of such Force, or shall give or offer or promise to give any bribe, recompense, or reward, or shall make any collusive agreement with any member of the Force to induce him in any way to neglect his duty or conceal or connive at any act whereby any Rule, Order or Regulation in force under this Act may be evaded, every such person so offending, and whether such offer be accepted or act be performed or not, shall, in addition to any other punishment to which he may be liable for such offence forfeit for every such offence, on summary conviction before any Resident Magistrate, any sum not exceeding Fifty Pounds.

Personation.

Bribery.

Harbouring or entertaining policeman unlawfully by dealer in liquor.

39. If any licensed or unlicensed dealer in wines and spirits and intoxicating liquors shall harbour or entertain any policeman in uniform belonging to the said Force, or permit such policeman to abide or remain in his house, shop, room, or other place, except for the purpose of procuring necessary refreshment for himself or any prisoner in his custody, or to bait his horse, every such dealer shall, for a first offence, forfeit and pay any sum not exceeding Ten Pounds, to be

(A) See *Reg. v. Charlesworth*, 8 N.L.R. 133.

recovered in a summary manner, and for a second or subsequent offence shall be liable, besides such penalty, to imprisonment for any period not exceeding one month with or without hard labour; Provided that it shall be lawful for any policeman at any time to enter any house or place of public resort for the sale of wines, spirits, or intoxicating liquors, in the discharge of his duty. Act 1, 1894.

40. If any person shall resist or assault or incite or encourage any person to resist or assault any member of the Force in the execution of his duty, such person shall forfeit a penalty not exceeding Twenty Pounds or be liable to imprisonment for any period not exceeding three months on summary conviction thereof before any Resident Magistrate, and such Magistrate may order and award besides any such penalty a sum sufficient to cover any damages any such member of the Force may have sustained by such assault or resistance, such sum to be recoverable along with such penalty. Resisting Police.

41. Every member of the Police Force constituted under this Act shall be liable to render military service within or without the Colony if and when called out by the Governor to render such service. Liability to military service

42. When the Police Force or any part of it shall be called out for military service, it may be placed under the order of such person or persons as the Governor shall appoint to take command thereof. Command of military force

43. When any part of the Police Force shall be engaged in military service, the jurisdiction conferred by Section 29 on the Supreme Court and Circuit Courts and the Courts of Resident Magistrates for the trial of the offences specified in the Schedule of this Act may be exercised by Courts-martial constituted under the Regulations made in that behalf: Provided that this section shall not be deemed to prevent the trial of such offences in the ordinary Courts of Law, in the option of the person in charge of the military undertaking. Courts-martial.

44. If any question shall arise as to the right of the Chief Commissioner, or of any officer or policeman, to hold or execute his office, common reputation shall to all intents and purposes be deemed sufficient evidence of such right; and it shall not be necessary to have or produce any written appointment, or any oath, affidavit, or other document or matter whatsoever in proof of such right. Evidence of right to hold office.

45. The Governor in Council may, upon the recommendation of the Chief Commissioner of Police, award to any member of the Police Force:— Special remuneration for injuries or distinguished services.

- (a) Remuneration by way of increased pay or otherwise for distinguished service;
- (b) Compensation for severe injury received in the performance of duty;
- (c) In the case of total disability from injury received in the performance of duty a sum of money or a pension;
- (d) In the case of death resulting from wounds or injuries received in the performance of duty, or occurring during actual military service, a gratuity to the family of the deceased.

A return of all such payments shall be laid before the Legislative Council and the Legislative Assembly at their next ensuing session.

46. A Superannuation Fund shall be established and managed for the benefit of members of the Police Force under Regulations to be made by the Governor in Council; and any period served by any member of the force in any other branch of the Public Service of Natal before he became a member of the force shall be counted for the purposes of such Superannuation, subject to such Regulations as may be passed in respect thereto. Superannuation Fund.

47. In case of any general retrenchment of the force by any decision come to by Parliament, then each member of the force who may have contributed to the Superannuation Fund and who may cease to serve Contribution to be returned with interest in certain cases.

- Act 1, 1894. the Colony because of that retrenchment shall be entitled to receive the amount contributed by him to the Superannuation Fund, together with interest thereon, at the rate of four per centum per annum.
- Sources of contributions to Fund. 48. Every member of the Force [of European descent, and any other member who may from time to time be admitted to the benefit of the fund (A)] shall subscribe to the fund. All deductions from the pay of subscribers to the fund shall be made at such rates, not exceeding two-and-a-half per cent., as may be laid down in the Regulations aforesaid. The Government shall, for each and every half year, contribute to the Superannuation Fund a sum equal to the contributions during the same half year of all the contributing members. The sums paid by the Government and the sums deducted from the pay of members of the Force, together with any authorised stoppages of pay from policemen for absence from duty or for misconduct, or fines, or penalties recovered under this Act from members of the Force, shall be paid into the fund, and the moneys of the fund shall be invested from time to time in good securities, and the interest thereon shall be added to the fund.
- Forfeiture of allowance. 49. [Repealed by Act No. 37, 1898.]
- Disposal of property taken by Police. 50. Any member of the force may be dismissed or removed from the Force without a superannuation allowance, and no member of the Force shall be entitled, as of right, to any allowance from the Fund, nor shall he retain any right to a refund of any deduction made from his pay while he shall have been a member of the Force.
- Rights under Pension Law not affected. 51. Any goods and chattels which have lawfully come into the possession of any member of the Police Force in the discharge of his duty shall be dealt with in such way as may be directed by the Government, and a return of all such goods and chattels, and of the manner in which they may have been disposed of, shall be made to Parliament.
- Commencement. 52. This Act shall not be construed to take away from or to confer upon any person any claim to the benefits of the Law No. 22 of 1874; and the provisions of that Law (B) shall not extend to any member of the Police Force who, at the date of the promulgation of this Act, shall not be entitled thereto.
53. This Act shall commence and take effect from and after the thirtieth day of June, 1894.

SCHEDULE.

Part I.

Schedule.

1. Striking or offering violence, or using threatening or subordinate language to a superior officer of the Force.
2. Disobeying the lawful command of a superior officer.
3. During the period for which he shall have engaged to serve in the Police Force, deserting from the same or refusing to serve therein, or advising or persuading any other member to desert, or on discovery of any deserter or attempted desertion, not giving information to his immediate superior officer, or not taking other means to prevent such desertion, or to cause such deserter to be arrested.
4. Without proper authority, releasing any prisoner committed to his charge, or suffering him to escape.
5. Assisting or conniving at the escape, or attempt, or preparation to escape of any person from any gaol, lock-up, or other place in which such prisoner may be confined or otherwise in lawful custody.
6. Being drunk on duty or not on duty.

(A) Words in brackets repealed by Act 37, 1898, s. 4, post.
 (B) See tit. "PENSIONS."

7. Wilfully neglecting to execute any warrant entrusted to him for execution. Act 1, 1894.

8. Selling, losing through neglect, pledging, or otherwise disposing of any horse, saddlery, arms, ammunition, equipment, clothing, or other article which, by the Regulations of the Force for the time being, he shall be required to keep in his possession.

9. Beginning, inciting, causing, or joining any mutiny, sedition, or disturbance, or being present at any such mutiny, sedition, or disturbance, and not using his utmost endeavour to suppress the same.

10. Being found asleep on his post or beat, or leaving the same without being regularly relieved.

11. Discharging any firearms without orders, unless in the execution of his duty.

12. Offering any unwarrantable personal violence to any prisoner in his custody, or when making an arrest.

13. Being guilty of any act of insubordination or misconduct against the discipline of the Force, or any breach of the Rules and Regulations thereof.

Part II.

Offences committed during Military Service and cognizable only in the Superior Courts and Courts-Martial.

1. Mutinying or taking part in a mutiny or deserting.

2. Casting away arms, or running away, or otherwise misbehaving before the enemy, or shamefully abandoning or delivering up any post, camp, station, or guard committed to his charge, or which it was his duty to defend, or inciting any other person so to do.

3. Disclosing in any way the numbers, position or preparations of the Force or Forces to which he is attached, and by such disclosures producing effects injurious to the service to which he belongs.

Act No. 37, 1898.

“To amend the Police Act of 1894.”

[15th August, 1898.]

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 interpretation of the word “Officer” in Section 3 of the Police Act, 1894 (hereinafter referred to as the Act) shall be expunged, and in lieu thereof the following shall be enacted:

Interpretation of the word “Officer.”

“Officer” includes the Chief Commissioner and all other Commissioned Officers of the Police Force.

2. The enumeration of Officers in Sections 5, 8, and 32 of the Act shall include Assistant Commissioner next after the Chief Commissioner, and shall also include all other Commissioned Officers of the Police Force.

Assistant Commissioner added to Police Force.

3. Section 24 of the Act is hereby repealed, and, in lieu thereof, the following is enacted:—

Repeal of sec. 24 of the Police Act, and provision in lieu thereof.

The Chief Commissioner may provide police service to the employers of labourers, at the cost of such employers, in cases where the number of labourers or other circumstances render it proper that private policemen should be employed.

Act 37, 1898.

Amendment of
sec. 48 of the
Police Act.

Repeal of sec.
49 of the Police
Act.

Superannua-
tion.

4. The words "of European descent, and any other member who may from time to time be admitted to the benefit of the fund," occurring in Section 48 of the Act, are hereby repealed.

5. Section 49 of the Act is hereby repealed, and in lieu thereof the following shall be enacted:—

The moneys of the Fund shall be applied from time to time to the payment of Superannuation or retiring allowances, or gratuities, to retiring members of the Force, or to widows or families of deceased members, in terms of the Regulations to be passed with respect thereto.

Construction.

6. This Act and the Police Act of 1894 shall be read and construed together as one Act.

Act to apply to
Zululand.

7. The Police Act of 1894 and this Act shall apply to the Province of Zululand: Provided that until the jurisdiction of the Supreme Court shall be extended to the Province of Zululand by any special Act to be passed in that behalf the jurisdiction of the Supreme Court, as provided for in the Police Act of 1894, shall in the Province of Zululand be exercised by the Magistrates.

Repeal of
Proclamation
No. 1 of 1898.

8. The Proclamation No. 1, bearing date the 8th day of January, 1898, by virtue of which the Police Act of 1894 was applied to the Province of Zululand, is hereby repealed, without prejudice to anything done thereunder.

POOR.

[See "BURIAL"; "DESTITUTE PERSONS."]

POPULATION.

[See "CENSUS."]

PORTS AND HARBOURS.

[See "PUBLIC HEALTH (QUARANTINE)"; "REVENUE (CUSTOMS)."]

Law No. 18, 1883.

"To abolish certain Offices under Government connected with the Port Department."

[12th November, 1883.]

WHEREAS it is desirable that all Officers serving under the Natal Harbour Board be placed on the same footing, and that provision be made for compensating any such Officers whose offices under the Government are abolished under this Law:

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

- | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------|
| 1. The Offices under the Government now filled by the Officers named in the Schedule to this Law shall be, and the same are hereby, abolished. | Offices abolished. |
| 2. Each of the said Officers shall be entitled to pension or compensation reckoned according to Law 3 of 1872 (A). | Pensions. |
| 3. No pension shall be paid under this Law to any pensioner during such term as such pensioner shall receive salary of an equal or greater amount than his pension from the Natal Government, or from the Natal Harbour Board. | Restrictions on pensions. |
| 4. The Natal Harbour Board is hereby authorised to enter into any agreement with any of the said Officers for the continued performance by him of the duties heretofore discharged by him as an Officer under the Government. | Re-engagement of officers by Harbour Board. |
| 5. This Law shall commence and take effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (B). | Commencement |

SCHEDULE (c).

Port Department.

- C. Strachan, Pilot.
- G. D. Stewart, Chief Engineer, Tug "Forerunner."
- C. A. Macton, 2nd " " "
- L. B. Freyneau, Stoker, " " "
- Thos. Johnson, Carpenter, " " "
- A. Hunt, Signalman, Bluff.

Wharfmaster's Department.

- P. Toohey, Wharf Constable.

Resident Engineer's Department.

- D. Moffat, 1st Lighthouse Keeper, Bluff.
- D. W. Bell, 2nd " " "

Water Police Department.

- D. I. Nolan, Superintendent.

(A) See tit. "PENSIONS."
(B) Nov. 13, 1883.

(c) The name of Tiras' Russell Wellington is added to this Schedule by Law 8, 1884, post.

Law No. 8, 1884.

“ To amend Law No. 18, 1883, entitled Law ‘ To abolish certain offices under Government connected with the Port Department.’ ”

[20th August, 1884.]

WHEREAS it is necessary to amend the Schedule attached to Law 18, 1883, by the addition thereto of the name of Pilot Tiras Russell Wellington :

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

Name added to
Schedule to
Law 18, 1883.

1. There shall be added to the Schedule of Law 18, 1883, under the head of “ Port Department,” the name of Tiras Russell Wellington, Pilot, and this Law and Law 18, 1883, shall be read and construed together as one Law, as if the aforesaid name was originally inserted in the Schedule annexed to Law 18, 1883.

Commencement

2. This Law shall commence and take effect from and after the promulgation thereof in the “ NATAL GOVERNMENT GAZETTE ” (A).

Act No. 3, 1894.

To provide for the Better Regulation of the Ports and Harbours of Natal.”

[29th June, 1894.]

WHEREAS it is expedient to provide for the better Regulation of the Ports and Harbours of Natal :

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:—

Repeal.

1. Law No. 29 of 1880, Law No. 2 of 1882, Law No. 3 of 1884, and Law No. 10 of 1889, shall be and the same are hereby repealed.

Existing By-laws.

2. All By-laws, Rules, and Regulations passed under Law No. 29 of 1880 shall remain of full force and effect until altered, added to, or amended under this Act, and may be enforced in the same way as is provided with respect to By-laws, Rules, and Regulations to be passed hereunder.

Secretary to
Harbour Board
to be custodian
of books, &c.

3. The person who, on the 30th day of June, 1894, shall be the Secretary of the Natal Harbour Board, or such other person as may be appointed to the duty, shall be the custodian of all the books, documents, plans, agreements, reports, and other papers in the custody or control of the Natal Harbour Board or any of its officers, subject to such orders with respect thereto as may be to him given on behalf of the Government, and such officer or person shall, within three months of the 30th day of June, 1894, frame and furnish to the Colonial Secretary a full inventory of all such books, documents, plans, agreements, reports, and other papers.

Status of
officers and
servants.

4. All engineers, mariners, officers, and servants who, on the 30th day of June, 1894, shall be in receipt of salary paid out of public funds through the Natal Harbour Board, and for the continuance of whose salaries due provision shall be made by Law, shall be deemed to be in the service of the Government as from that date, on the same terms as regards notice and otherwise as were heretofore subsisting.

Governor or
Governor in
Council to
exercise powers
of Harbour
Board.

5. All powers conferred upon, and all duties heretofore discharged by the Natal Harbour Board by or under Law No. 29 of 1880, may be exercised and discharged by the Governor of Natal or the Governor in Council, as from the 1st day of July, 1894, inclusive, in the manner by this Act provided.

Aug. 26, 1884.

6. The lands known as Addington and the Point shall be deemed to vest in the Queen free from the operations of Section 16 of Law No. 29 of 1880, and all contracts entered into by the Natal Harbour Board in relation to such lands or any thereof shall be carried into effect by the Government of Natal. **Act 3, 1894.**
Lands at Addington and Point.
7. Wherever in any now subsisting Law the Natal Harbour Board is named, the Governor of Natal or the Governor in Council, respectively, may be deemed to be referred to. Construction of Laws referring to Harbour Board.
8. Any and all contracts and agreements duly entered into by the Natal Harbour Board shall be carried into effect by the Government of Natal. Contracts.
9. The Colonial Secretary, on behalf of the Government, may be made plaintiff or defendant in any suit or proceeding which but for this Act might have been brought by or against the Natal Harbour Board. Suits.
10. The Port of Natal is hereby declared to be a compulsory pilotage port, save as to vessels specially excepted by any Rule or Regulation passed hereunder or under Law No. 29 of 1880. Port Natal a compulsory pilotage port.
11. The Governor in Council may, from time to time, license fit and proper persons to be pilots for any Port or Harbour of the Colony. Pilots.
12. The Governor may, from time to time, direct the appointment of examiners to examine any applicant for a license as a pilot in seamanship and steam, and knowledge of local waters. Examination of pilots.
13. No person shall be licensed as a pilot until he shall have satisfied such examiners, nor until he shall have entered into a Bond, with two approved securities, in a sum of One Hundred Pounds, conditioned for the careful discharge of his duty as a pilot. Persons who shall hold licenses as pilots at the date when this Act shall take effect, shall be deemed to be Pilots licensed under this Act. Requisites for pilots' license.
14. A pilot's license may be suspended by the Port Captain for a reason appearing to him to be sufficient and may be cancelled by the Governor in Council. Suspension and cancelling of license.
15. The Government of Natal shall not be responsible for any loss, damage, or accident, that may occur through any pilot, even though such pilot may be for sake of convenience, a servant of the Government. Government not liable for pilot's act.
16. The Governor in Council may from time to time make, repeal, alter, and amend By-laws, Rules and Regulations in respect of all or any of the following objects and purposes; and as regards any port, harbour, or landing place on the Coast of Natal:—
By-laws and Regulations.
- (a) To promote secure anchorage in and the safe navigation of the Port and Harbour of Natal.
 - (b) To prevent shipwrecks and casualties to shipping and for the protection of ships and cargoes wrecked or in danger of being wrecked.
 - (c) To remove wrecks and wreckage, dangerous or likely to become dangerous to navigation.
 - (d) To prevent vessels from leaving the Port or Harbour if overladen or insufficiently manned, or with a number of passengers in excess of the number that can be carried with reasonable safety.
 - (e) To promote efficiency and discipline in the Pilot Service and upon Government vessels, and in Government departments connected with any Port or Harbour or Lighthouse, Lifeboat or Live-saving Apparatus.
 - (f) To save life in case of shipwreck.
 - (g) To prevent the use of unsafe or dangerous craft.
 - (h) To facilitate and expedite the loading and unloading of vessels.

Act 3, 1894.

- (i) To regulate the use of wharves, shears, slips, gridirons, docks, cranes, and lights.
- (k) To promote and ensure good sanitation, cleanliness and decency.
- (l) To regulate the use of the Inner Harbour, called the Bay of Natal, and the islands therein, and to prevent any unauthorised encroachment thereon, or exclusive use thereof, or obstruction therein.
- (m) To regulate mooring of hulks in the Bay of Natal.
- (n) To fix and determine Port and Harbour Dues, and to consolidate Harbour Charges, including the light dues fixed by Law No. 13 of 1868 (A), and to fix the charge for licenses to ferry-men, and for boats plying for hire, and for limiting the number of passengers which may be carried on any small craft, and for tugs and lighters and for other craft used for loading and unloading vessels, and for hulks moored in the Bay of Natal.
- (o) To regulate the use of warps supplied by Government, and the charge to be made therefor (B).

Promulgation of By-laws.

17. All By-laws, Rules, and Regulations passed by the Governor in Council shall become of full force and effect when published in the "NATAL GOVERNMENT GAZETTE."

Penalties for breach of By-law.

18. Any person committing a breach of any such By-law, Rule, or Regulation shall be liable to a fine not exceeding Ten Pounds Sterling, or failing payment to imprisonment with or without hard labour for any term not exceeding three months.

Liability of Masters for contravention.

19. In case of the contravention of any By-law on board any vessel in the Port or Harbour the Master of such vessel may be proceeded against in respect thereof, and may be held liable unless he is able to show that it was not in his power to prevent the contravention.

Jurisdiction in contraventions.

20. Any Contravention of any By-law, Rule, or Regulation may be dealt with by the Resident Magistrate of Durban, or by any Justice of the Peace appointed by the Governor with jurisdiction as regards such By-laws, Rules, or Regulations, and the prosecution may be by any officer of the Port or Harbour, being the head of a department, in connection with whose department the contravention may have occurred, or by any Superintendent or Inspector of Police.

Area within which By-laws and Regulations apply.

21. The By-laws, Rules, and Regulations having effect under this Act shall apply to the Bay of Natal or Inner Harbour up to high water mark and to the islands in the Bay and to all foreshores and wharves, slips, docks, gridirons and reclaimed lands the property of the Government, and to the promontory called the Bluff from its northern extremity to a line drawn from the Inner Harbour to the Indian Ocean, northward of lots 35, 31, 21, and 27, and to the foreshore known as the Admiralty or Government Reserve on either side of the Bluff and along the shore known as the Back Beach as far as the Umgeni River, and as far seaward as Colonial jurisdiction extends.

Short title.

22. This Act may be cited as the Harbour Act, 1894.

Commencement

23. This Act shall commence and take effect on and after the first day of July, 1894.

(A) Repealed by Act 13, 1899, tit. "REVENUE."

(B) See Act 3, 1899, post, which adds a sub-s., (p).

PORTS AND HARBOURS.

5

Act No. 3, 1899.

“To amend the Harbour Act, 1894.”

[30th June, 1899.]

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. Section 16 of the Harbour Act, 1894, shall be amended by the addition thereto of the following sub-section, to be lettered (p):—

To fix and determine from time to time the charges to be imposed by ferrymen and boatmen, and to regulate the duties and the hours of attendance of ferrymen and boatmen.

POST-NUPTIAL CONTRACTS.

[See “COMMUNITY OF GOODS.”]

POST OFFICE.

[See "TELEGRAPH."]

Law No. 22, 1884.

"To repeal the existing Laws relating to Postal Conveyance, and to make other and better provisions for, and to regulate the Conveyance and Postage of Letters, Post Cards, Packets, Parcels, and Newspapers."

[7th November, 1884.]

WHEREAS it is expedient to repeal the existing Laws relating to Postal Conveyance, and to make other and better provisions for, and to regulate the Conveyance and Postage of Letters, Post Cards, Packets, Parcels, and Newspapers :

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

Repeal of Laws,

1. The "Post Office Consolidation Law, 1867," and Law No 12, 1871, entitled, "Law to amend Law No. 11, 1867, entitled, 'Post Office Consolidation Law, 1867,'" shall be, and the same are hereby repealed, save and except as to anything done, appointments, orders, regulations, and contracts made, offences committed, penalties incurred, or proceedings instituted previously to the commencement of this Law.

"Inland" letters, &c.

2. All letters, post cards, packets, parcels, and newspapers received at any post office for delivery in this Colony shall be deemed inland letters, post cards, packets, parcels, and newspapers; and all letters, post cards, packets, parcels, and newspapers received from any place beyond the limits of this Colony, or received at any post office for delivery beyond the limits of this Colony, shall be deemed to be foreign letters, post cards, packets, parcels, and newspapers.

"Foreign" letters, &c.

3. In the interpretation of this Law, the words "post office" shall include any pillar-box, or wall-box, or other place set apart for the reception of letters, post cards, packets, parcels, or newspapers, under the authority of the Postmaster-General.

Interpretation of "Post Office."

4. The Governor may from time to time make, alter, and repeal regulations for all or any of the purposes following :—

Governor empowered to make regulations for purposes mentioned in the sub-sections, and to impose penalty for offence against the same.

- (1) For the establishment and management of Post Offices.
- (2) For the receipt, registration, despatch, carriage, and delivery of letters, post cards, packets, and newspapers.
- (3) For the conduct and guidance of all postmasters and other officers and servants of the Post Office (A).
- (4) For the letting of and for the charges to be made for the use of private boxes and private bags.
- (5) For the making, issuing, sale, and respecting the use of post cards.
- (6) For providing that certain letters upon the service of Her Majesty the Queen, civil or military, shall be forwarded and received free of postage.
- (7) For regulating the issue of money orders and postal orders; the rate of commission to be received in respect of such money orders and postal orders; the persons by or through

(A) See Law 8, 1890, post.

whom, and the places where, and the times when, and the manner and form in which money orders and postal orders shall be granted; and the persons in favour of whom, and the places where, and the times when, and the manner and form in which money orders and postal orders respectively shall be paid; and the length of time during which money orders and postal orders shall be current, and after which they shall become void; and the mode of forwarding advices of the transmission of moneys; and as to every other matter or thing necessary to be regulated or done for enabling the public promptly and safely to remit small sums of money through the Post Office. Law 22, 1884.

- (8) For conveying small parcels from place to place within this Colony; for limiting the weight of such parcels; for regulating the rates to be paid in respect of the conveyance of such parcels not being more than threepence for every four ounces, or fraction of four ounces, and generally for regulating and controlling the receipt, registration, and delivery of such parcels.
- (9) For the making, issuing, and sale of such postage, or impressed, or embossed stamps as may from time to time be deemed necessary for the purposes of this Law (A); and for authorising the making and use of such office stamps as may be necessary in the General or any other Post Office.

And by such regulations may impose any penalty not exceeding Ten Pounds for any offence against any of the same.

5. Except when otherwise specially provided in this Law or by any Law now or hereafter in force, postage upon and fees for registration of every inland and foreign letter, post card, packet, parcel, and newspaper, respectively, shall be levied according to the scale and at the rate set forth in and by the first Schedule to this Law; but every letter, post card, packet, parcel, and newspaper sent by post from any place beyond the limits of this Colony shall be transmitted and delivered free of additional charge within this Colony; except as hereinafter mentioned, and except in cases where it is necessary to collect the postage under any arrangement or convention to be made as hereafter mentioned, in which case the same and all fees and charges upon such letter, post card, packet, parcel, or newspaper may be collected on or before the delivery thereof respectively.

Postage payable according to rates mentioned in first schedule.

6. Inland and foreign letters not exceeding one-half ounce addressed to or forwarded by any writer or schoolmaster, or any seaman on actual service in Her Majesty's navy, or by any bandmaster, army schoolmaster, or schoolmistress, sergeant, corporal, drummer, trumpeter, fifer, or private soldier on actual service in Her Majesty's Imperial or Colonial Forces or Royal Marines, shall be charged the sum of one penny in lieu of the postage in the said second Schedule mentioned, exclusive of postage (if any) payable in respect of the transmission of any such letter through any foreign territory. But no such letter shall be transmitted or delivered unless such letter relates exclusively to the private concerns of such seaman or soldier, and unless (in case of a letter forwarded as aforesaid) there shall be on the face thereof the name of the writer and his class or description in the vessel, regiment, corps, or detachment to which he belongs, and the signature of the officer having command of such vessel, regiment, corps, or

Certain letters chargeable with 1d. postage only.

(A) See Law 2, 1869, s. 3, tit. "REVENUE."

Law 22, 1884. detachment, nor unless (in the case of a letter addressed as aforesaid) there shall be specified on the superscription thereof, the vessel, regiment, corps, or detachment to which the person to whom it is addressed belongs. This section shall not apply to letters addressed to or forwarded by any commissioned or warrant officer, whether in the Imperial or Colonial Forces or in the Navy, or midshipman in the Navy.

Postal packets defined.

7. The Governor may from time to time, by notice published in the "GOVERNMENT GAZETTE," direct what packets may be sent by post as inland and foreign packets within the meaning of this Law, and upon what terms and conditions the same may be sent; and until such order be made the following, and no others, may be sent by post as inland and foreign packets (A) within the meaning of this Law:—

- (1) "COMMERCIAL PAPERS" (in covers open at the ends or sides), under which are comprised all papers or documents written or drawn wholly or partly by hand (except letters or communications in the nature of letters, or other papers or documents having the character of an actual and personal correspondence), documents of legal procedure, deeds drawn up by public functionaries, copies of or extracts from deeds under private seal (and whether written or printed on stamped or unstamped paper), way bills, bills of lading, invoices, and other documents of a mercantile character, documents of insurance and other public companies, all kinds of manuscript music, the manuscript of books and other literary works, and other papers of a similar description;
- (2) "PRINTED PAPERS" (in covers open at the ends or sides), including periodical works, books (stitched or bound), pamphlets, sheets of music (printed), visiting cards, address cards, proofs of printing (with or without the manuscript relating thereto), engravings, photographs (when not on glass or in frames containing glass), drawings, plans, maps, catalogues, prospectuses, announcements, and notices of various kinds, whether printed, engraved, or lithographed, and in general all impressions or copies obtained upon paper, parchment, or card-board by means of printing, lithographing, or any other mechanical process easy to recognise, except the copying-press, and anything usually attached or appurtenant to any of the before-mentioned articles in the way of binding, mounting, or otherwise, and anything convenient for their safe transmission by post which shall be contained in the same packet; also printed, engraved, or lithographed circulars, notwithstanding that such circulars may be letters or communications in the nature of a letter;
- (3) "PACKETS" (in covers opened at the ends or sides), containing patterns or samples of merchandise not having a value of their own apart from their mere use as patterns or samples, and either unenclosed or enclosed in bags, tied so as to be easily loosened and refastened.

Definition of a "newspaper."

8. For the purposes of this Law, any publication coming within the following description shall be deemed a newspaper (that is to say): Any publication consisting wholly or in great part of political or other news, or of articles relating thereto, or to other current topics, with or without advertisements, and with or without engravings, prints,

(A) See sec. 48, post.

or lithographs illustrative of articles in such newspaper, subject to these conditions:— Law 22, 1884.

That it be published in numbers or parts at intervals of not more than seven days.

That it be printed on a sheet or sheets unstitched (A).

That it have the full title and date of publication printed at the top of the first page, and the whole or part of the title and the date of publication printed at the top of every subsequent page.

And the following shall be deemed a supplement to a newspaper:—
A publication consisting wholly or in great part of matter like that of a newspaper, such publication being in every case published for the first time with the issue of the newspaper of which it purports to be a supplement, and having the title and date of publication of such newspaper.

Newspaper
"supplements."

9. Every inland or foreign newspaper shall be sent without a cover, or in a cover open at both ends; and there shall not be in or upon any such newspaper or the cover thereof any communication, character, figure, letter, or number (other than the words "newspaper only," or the printed title of such newspaper, the printed names, occupation, and places of business of the printer, publisher, or vendor thereof, the name or initials of the person by whom it is sent, the name, occupation, and address of the person to whom it is sent, and the words aforesaid), nor shall anything be enclosed in or with or accompany such newspaper or cover; otherwise, there shall be charged upon every such newspaper postage at the rate for the time being chargeable upon letters: Provided always that during the space of two years from the 1st day of January, 1885, no postage shall be charged on the first issue of newspapers printed and published within the Colony and posted by the publishers within two days of the date of publication thereof, in printed wrappers, to be approved of by the Postmaster-General, bearing the title of the newspaper and the name and address of the publishers.

How newspapers to be addressed and posted.

Prohibitions.

Proviso.

10. The "GOVERNMENT GAZETTE," when enclosed in a cover, open at both ends, and with the words "On Her Majesty's Service" printed thereon, together with its title and the imprint of the printer, shall if received at the General Post Office from the office of the printer, but not otherwise, be exempt from postage.

Government Gazette exempt from postage if sent by Government printer.

11. [Repealed by Act No. 26, 1894.]

12. Except in the cases in this Law or in any regulations made under the authority of this Law expressly mentioned, the postage upon every inland and foreign letter, packet, and newspaper, and upon every parcel, and all fees (if any) upon such letter, packet, newspaper, or parcel, shall be prepaid by affixing thereon postage stamps not obliterated or defaced, and not being embossed or impressed stamps cut out of or separated from the paper, card, or other material upon which such stamps were embossed or impressed, although not previously used; and in default thereof, there shall be chargeable upon every such letter, packet, or parcel, double the ordinary rate of postage for the time being payable thereon respectively: and every such newspaper may be destroyed or otherwise disposed of; Provided that postage on loose letters received from masters of vessels may be collected in money on delivery.

Adhesive stamps to be used, except where otherwise provided.

13. In case any postmaster shall not have any postage stamps of the requisite value for sale, the postage and fees (if any) upon any letter, packet, newspaper, or parcel, may be prepaid in money, and shall be acknowledged by such postmaster on the face or cover of such

When postage may be paid in money.

(A) This provision is partially repealed by Law 26, 1888, post.

Law 22, 1884. letter, packet, newspaper, or parcel, anything to the contrary in the last preceding section notwithstanding.

Double postage payable on letters &c., not prepaid.

14. Any inland letter, inland packet, or inland newspaper, or any parcel posted with an unobliterated postage stamp of any denomination shall be regularly transmitted and delivered although the stamp be insufficient, but before delivery in this Colony there shall be paid in money double the amount of postage omitted to be prepaid, and the sum so to be paid shall be written or stamped on such letter, packet, newspaper, or parcel, by the postmaster who transmits or delivers the same.

Postmasters to see that letters, &c., properly stamped.

15. Except in the cases expressly mentioned in this Law or in any such regulations as aforesaid, every postmaster shall see that every post card and every inland and foreign letter, packet and newspaper, and every parcel, bears either postage stamps or a proper acknowledgment for money respectively equal in value or amount to the postage due thereon.

16. [Repealed by Act No. 12, 1898.]

Registration of letters, &c.

17. Any person who shall send any letter, post card, packet, newspaper, or parcel by post shall be entitled to have the same registered at the Post Office at which the same shall be posted upon payment of the proper registration fee; but such registration shall not be deemed to render the Government or the Postmaster-General, or any officer of the Post Office, liable for the loss of any such letter, post card, packet, newspaper, or parcel; and all letters, post cards, packets, newspapers, and parcels shall be put into the Post Office, and also be delivered, at or between such hours in the day and under such regulations as the Postmaster-General shall from time to time appoint.

Double registration fee to be charged in certain cases.

18. In any case where it shall come to the knowledge of any postmaster, or officer of the Post Office, or where any postmaster or officer of the Post Office has reasonable cause to believe, that any inland or foreign letter or packet not registered under this Law, or under the postal regulations of any other country, contains any money or other valuable enclosure (A), such postmaster or officer may register such letter or packet, and charge thereon double the proper fees for registration; and such fees shall be paid in money by the person to whom it is addressed before delivery, unless such person shall before or upon such delivery open the letter or packet in the presence of some postmaster or officer of the Post Office and it shall be found not to contain money or other valuable enclosure, in which case such fee shall be remitted.

Letters may not be destroyed or returned or delivered to third parties without consent of addressee or direction of P.M.G.

19. Except in the cases in this Law expressly mentioned no letter, post card, packet, newspaper, or parcel shall be destroyed or returned to the writer or sender thereof without either the consent in writing of the person to whom the same is addressed, or the direction of the Postmaster-General; and no letter, post card, packet, newspaper, or parcel shall be delivered to any person not named in the address thereof without such consent or direction as aforesaid.

What letters must be transmitted to returned letter branch of General Post Office.

20. Every postmaster or other officer of the Post Office shall transmit to the returned letter branch of the General Post Office without delay any letter, post card, packet, parcel or newspaper which

- (1) Shall have anything blasphemous, obscene, offensive or libellous written or drawn on the outside thereof.
- (2) Shall have no address or no legible or intelligible address.
- (3) The person to whom it is addressed shall refuse to receive or to pay for when postage is payable.

(A) For meaning of "other valuable enclosure," see Law 10, 1887, s. 3, post.

- (4) Shall be known or reasonably suspected to be posted, or to contain an enclosure, in fraud or violation of this Law, or any regulation thereunder, [or of any Customs Law (A)], or to contain any obscene enclosures: Provided always, that in the case of newspapers sub-sections (1) and (4) only shall apply. Law 22, 1884.

And every letter, post card, packet, newspaper or parcel as aforesaid, posted at the General Post Office, may be there retained and dealt with as if it had been transmitted as aforesaid.

21. Any postmaster may (notwithstanding anything in the last preceding section contained) open or unfasten any packet or parcel which he has reasonable ground to suspect to be posted in fraud or violation of this Law, or any regulation thereunder, and shall close or refasten any packet or parcel so opened which he shall find not to have been so posted, and shall mark on the cover of every such packet or parcel that the same has been opened, and sign his name thereon. Power to open packets, &c., suspected of being posted in fraud of this Law.

22. [Repealed by Act No. 12, 1898.] *repealed*

23. On the receipt at the General Post Office of any unclaimed letter, packet, or parcel originally posted in this Colony, or of any letter, packet, newspaper, or parcel posted, or reasonably suspected to have been posted, or to contain any enclosure, in fraud or violation of this Law, or of any Law relating to the Customs, or of any regulation or order made under the authority of this Law, such letter, packet, newspaper, or parcel may be opened in the General Post Office in the manner hereinafter provided. What letters, &c., may be opened at G.P.O.

24. Every such unclaimed letter or packet originally posted elsewhere than in this Colony shall be transmitted by the Postmaster-General to the proper authorities in the country in which such letter or packet was posted. Foreign unclaimed letters.

25. All letters, packets, or parcels which shall be opened under the authority of this Law (except as in the twenty-first section is provided), shall be opened in the presence of the Postmaster-General, or by or in the presence of an officer of the Post Office specially nominated for that purpose by the Postmaster-General. Who to open letters at G.P.O.

26. Every unclaimed letter, packet, and parcel which shall be opened under the provisions of this Law (unless such letter, packet, or parcel shall have been posted, or shall contain any enclosure in fraud or violation of this Law, or of any Law relating to the Customs, or of any regulation or order made under the authority of this Law, or with intent to evade payment of the postage properly chargeable thereon), shall be returned to the writer or sender thereof if the name and address of such writer or sender can be ascertained by examination of such letter, packet, or parcel, but if such writer or sender shall refuse to receive such letter, packet, or parcel, or if his name and address cannot be ascertained, the same may be destroyed. Unclaimed letters, &c., opened under provisions of this Law, how dealt with.

27. Every letter, packet, or parcel, opened under the provisions of this Law, which shall contain any valuable or saleable enclosure, shall be safely kept, and a list of its contents shall be made and preserved; and the Postmaster-General (unless such contents shall have been posted or shall be in fraud or violation of this Law, or of any Law relating to the Customs or of any regulation or order made under the authority of this Law, or with intent to evade payment of the postage properly chargeable on the letter, packet, or parcel containing them) shall cause such letter, packet, or parcel, and the said contents, to be returned registered to the sender thereof if he be known. But if the sender shall not be found or shall neglect to claim such returned letter, packet, or parcel within three months, during which period Letters containing valuables.

(A) Words in brackets repealed by Act 26, 1894, s. 4, post.

Law 22, 1884. it shall, in the ordinary way, be advertised in the "GOVERNMENT GAZETTE" as unclaimed, or if the person to whom it was originally addressed shall not sooner claim it, or if the contents shall have been posted, or shall be in fraud or violation of this or any Law, regulations, or order as aforesaid, or with intent to avoid payment of the postage as aforesaid, the said letter, packet, or parcel shall be destroyed and its contents forfeited, unless the Colonial Secretary shall direct the said contents to be restored to the sender or writer; and if the contents aforesaid shall not be money, or a security or order for money payable to bearer, the same may be destroyed, sold or converted into money in such manner as the Postmaster-General may direct, and the proceeds paid into the Treasury.

Sender of opened letter, &c., to pay any postage due thereon.

28. The sender of any letter, packet, or parcel, which shall be opened under the provisions of this Law shall on demand pay the postage and fees respectively (if any) due thereon; and in case of refusal shall upon conviction pay a penalty not exceeding twenty shillings, and in any proceeding for the recovery of the said penalty the person from whom such letter, packet, or parcel, shall purport to have come, shall be deemed to be the sender thereof, unless the person proceeded against shall prove that such letter, packet, or parcel, was not sent by him.

Governor empowered to make postal conventions.

29. The Governor may from time to time make and alter arrangements or postal conventions with the Postmaster-General of the United Kingdom, or with the proper authorities of any British possession or foreign country for any or either of the purposes following:—

- (1) For the issue and payment by means of the Post Office of money orders between this Colony and Great Britain, or any British possessions or foreign country.
- (2) For the transmission to any place out of this Colony of letters, post cards, packets, parcels, and newspapers, posted in this Colony or received in mails or loose, from masters of vessels, on which no postage or insufficient postage shall have been paid, free of postage, or upon such terms as to the amount of postage or fine to be paid on delivery, and as to the application thereof as may be agreed upon.
- (3) For determining the amount and collection of postage and fees or other charges upon letters, post cards, packets, parcels, and newspapers conveyed between this Colony and such kingdom, possession or country.
- (4) For the division and mutual accounting for and payment of the money collected under any arrangement.
- (5) For the purposes above-mentioned in sub-sections 3 and 4 in the case of letters, post-cards, packets, parcels, and newspapers transmitted through this Colony or the said kingdom, possession or country, to or from any part of the world.
- (6) For the pre-payment (in full or otherwise) of the postage due on any letters, packets, parcels, and newspapers.

How convention to be promulgated.

30. So soon as any arrangement or postal convention shall have been made under the authority of this Law 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 rates of postage and regulations therein set forth shall be imposed, paid, and observed.

Money orders and postal orders.

31. Subject to such regulations as may be made by the Governor under the provisions of this Law, the Postmaster-General may authorise his officers or any of them to issue money orders for sums not exceeding ten pounds, and postal orders for sums not exceeding one pound, and

all regulations made by the Governor relating to such money orders, and postal orders shall be binding and conclusive upon all officers of the Post Office, and upon the persons to whom such money orders and postal orders respectively, shall be granted or issued, and the payees thereof and all persons interested through or claiming under them, and upon all other persons whomsoever, and such regulations shall have the same force and effect in all respects as if contained in this Law.

Law 22, 1884.

32. No letter shall be carried for hire or reward otherwise than by post, and no letter shall be conveyed by any vehicle used for the public conveyance of passengers unless in any post office bag which may be thereby conveyed. Any person who shall send or convey any letter by any such vehicle, or otherwise than by post, or who shall for hire take charge of the same, for such conveyance shall upon conviction be liable to pay a penalty not exceeding Ten Pounds for every such letter. And every such letter sent, conveyed, or taken charge of to be conveyed, otherwise than by post, shall be deemed to have been so sent, conveyed, or taken charge of for hire or reward unless the contrary be shown by the accused. But nothing herein contained shall extend to any letter concerning goods sent and to be delivered therewith, or containing process of, or proceedings or pleadings in any court of justice, or affidavits, or depositions; [nor to any letter sent by any person concerning his private affairs, nor to any letter sent or carried to or from any post office (A).]

Restrictions as to conveying letters.

Penalty.

Exemptions.

33. If any person shall with intent to defraud, remove from any letter, packet, newspaper, or parcel respectively, sent by post, any stamp which shall have been affixed thereon, or wilfully remove from any stamp which shall have been previously used, any mark which shall have been made thereon at any Post Office, or shall knowingly put off or use any such stamp, he shall upon conviction be liable to a penalty not exceeding Forty Pounds, or to be imprisoned with or without hard labour for any period not exceeding six months; or to both such fine and such imprisonment.

Penalties for removing stamps from letters posted.

34. If any person shall enclose in or with any letter, packet, newspaper, or parcel, or shall put into any Post Office, pillar box, or wall box for the receipt of letters, any explosive, dangerous, or destructive substance, or any matter or thing likely to injure any letter, packet, newspaper or parcel, or the person of any individual, such person shall upon conviction be liable to be imprisoned with or without hard labour for any period not exceeding five years.

Penalties for sending dangerous substances by post.

35. Any person who shall be guilty of any of the following acts or offences shall, upon conviction, be liable to a penalty not exceeding Twenty Pounds, or to imprisonment with or without hard labour for any period not exceeding six months; or to both such fine and such imprisonment.

List of offences and penalties.

- (1) If he shall, contrary to the provisions of this Law or with intent to defraud, put into any Post Office anything purporting to be a letter, packet, or newspaper, within any of the exemptions by this Law allowed, or any letter purporting to belong to a class in which lower rate of postage is chargeable.
- (2) If he shall put into any Post Office any packet or parcel in or upon which or the cover whereof, there shall be any letter, communication, or intelligence not allowed by Law or shall wilfully subscribe on the outside of any packet a false statement of the contents thereof.

(A) Words in brackets are repealed by Law 10, 1887, s. 4, post, which substitutes others.

Law 22, 1884.

- (3) If he shall put into any Post Office any newspaper in or upon which or upon the cover whereof, there shall be any communication, character, figure, letter, or number (other than is excepted by the ninth section of this Law) or in or with which anything shall be enclosed, or which anything shall accompany.
- (4) If he shall put into any Post Office any letter, post card, packet, newspaper, or parcel bearing an obscene, profane, or libellous address or signature.
- (5) If he shall wilfully deface, break or injure any pillar box or wall box for the receipt of letters, or place in any such box for the receipt of letters, any substance likely to deface any letter, post card, packet, parcel, or newspaper.
- (6) If he shall detain, secrete, or keep any letter, post card, packet, newspaper, or parcel which ought to have been delivered to any other person, or any mail bag, mail box, mail parcel, letter, post card, packet, parcel, or newspaper, which shall have been found by the person detaining, secreting, or keeping the same, or by any other person.
- (7) If he shall by any false pretences or misstatement induce any postmaster or any officer or servant of the Post Office to deliver to him any letter, post card, packet, newspaper, or parcel sent by post and not addressed to him.
- (8) If (being a postmaster, master of a vessel, or other person authorised to receive, sort, despatch, carry, or deliver mail letters, post cards, packets, newspapers, or parcels sent by post) he shall negligently lose, or wilfully omit or delay to despatch or deliver any such mail, letter, packet, newspaper, or parcel, whether the same shall or shall not afterwards be recovered or delivered (as the case may be).
- (9) If (being the driver of any vehicle used for the conveyance of any mail, or the guard or person in charge of a mail, whether conveyed by such vehicle or on horseback or on foot) he shall become intoxicated, or shall loiter on the road, or wilfully misspend or lose time so as to retard the arrival of the mail at its proper destination within the time limited for its arrival.

Letters arriving
by ship to be
delivered to
Post-office.

36. All mails and every loose letter, post card, packet, or newspaper, which at the time of the arrival of any vessel in any port of this Colony shall be on board thereof directed to any person in this Colony shall be delivered on demand to any postmaster or port officer of such port or to any person duly authorised in their behalf by writing under the hand of the Postmaster-General or officer in immediate charge of the Post Office, except letters concerning goods on board such vessel and to be delivered with such goods, or sent by way of introduction only, or concerning the bearer's private affairs. And any person who shall knowingly or negligently detain, or keep in his possession, or shall neglect or refuse to deliver any mail bag, mail box, or mail parcel, or any letter, post card, packet, or newspaper (except as aforesaid) after such demand made as aforesaid, shall upon conviction be liable to pay a penalty not exceeding One Hundred Pounds.

Penalties for
omitting to
make such
delivery.

Masters of
ships to sign
declaration in
Schedule 2.

37. The master or person in charge of any vessel arriving at any port in this Colony shall, as soon as practicable after such arrival, sign in the presence of the postmaster or other officer appointed by the Postmaster-General to receive the same at such port or the town or place nearest thereto, a declaration in the form set forth in the second schedule to this Law, and thereupon such postmaster or officer shall

grant a certificate under his hand of the making thereof; [and until such certificate shall have been delivered to the proper officer of Customs at such port he shall not permit such vessel to report (A).] And any master or person in charge as aforesaid who shall fail or refuse to make such declaration or who shall make a false declaration shall, upon conviction, be liable to pay a penalty not exceeding One Hundred Pounds.

Law 22, 1884.

Penalty for false declaration.

38. Every master or person in charge of every vessel about to depart from any port in this Colony who shall receive on board thereof any mail bag, mail box, or mail parcel, for the purpose of conveying the same according to the direction thereof, shall be entitled to demand or receive for the carriage thereof

Payments for conveyance of letters by ship

[For every letter and packet contained therein the sum of one penny;

For every newspaper, one farthing (B);]

such master or person giving a receipt for the amount so received by him. But nothing herein contained shall entitle the master or person in charge of any vessel under contract for the conveyance of mails to receive payment for the same as aforesaid.

39. Every master or person in charge of any vessel not carrying mails under a contract for the carriage thereof, and being about to depart from any port in this Colony, shall before the clearance of such vessel, give to the postmaster or officer in charge of the post office at the port from which such vessel shall be about to depart, notice, in writing, of the intended time of departure of such vessel; and such notice shall not be less than twenty-four hours (C). And every such master or person in charge shall from time to time give notice of any postponement of such time of departure. And such postmaster or other officer of the post office shall, upon receiving such notice, grant a certificate to such master or person, and until such certificate shall have been given the vessel shall not be cleared. Every master or person in charge who shall omit to give such notice as aforesaid, or who shall depart from the port before the time mentioned in such notice, shall upon conviction be liable to pay a penalty not exceeding Fifty Pounds.

Masters of ships to give notice to Postmaster of intended departure.

40. If any master or person in charge of any vessel about to depart from any port in this Colony shall (after being thereto required by any officer of the post office, or by any port officer, or by any person duly authorised in writing in that behalf by the postmaster at such port), refuse or neglect to receive on board such vessel any mail bag, mail box, or mail parcel, or to give a receipt for the same being thereto required by the person tendering or delivering such bag, box, or parcel, or shall refuse or neglect safely to convey the same upon her then intended voyage, such master or person shall for every such offence be liable upon conviction to pay a penalty not exceeding One Hundred Pounds.

Penalty for refusing to receive mails on board ship.

41. As often as the master or person in charge of any vessel shall have received any mail bag, mail box, or mail parcel for carriage on board such vessel, and such vessel shall not depart on her voyage according to the time fixed for the departure thereof, such master or person as aforesaid shall on demand return to the postmaster, port officer, or other person duly authorised in that behalf, in writing, or to the officer in charge of the post office, such mails, and also any gratuity which may have been paid for the carriage of the same; and

Master not sailing as notified to return mails and gratuity.

(A) Words in brackets repealed by Law 35, 1887, post.

(B) Words in brackets repealed by Act 26, 1894, s. 5, post, which substi-

tutes others.

(C) Act 12, 1898, post, adds "except with the special consent of the Postmaster-General."

Law 22, 1884. in default of so doing, shall upon conviction be liable to pay a penalty not exceeding One Hundred Pounds.

Declaration to be made before J.P. by each postal officer.

42. Every postmaster and other post officer shall, before the exercise by him of the duties of his office, take and subscribe before a Justice of the Peace a solemn declaration, which every Justice of the Peace is hereby authorised and required to administer, in the form in the third schedule to this Law.

Penalty on postal officers, shipmasters, and others for breach of this Law or regulations hereunder.

43. Any postmaster or other officer employed in the Post Office or any master of a vessel or other person employed by or under any postmaster, or employed or authorised to receive, sort, carry, or deliver mails, or letters, post cards, packets, newspapers, or parcels sent by post, or otherwise employed in the business of the Post Office, who shall offend against or wilfully neglect or omit to comply with any of the arrangements or regulations to be made under the provisions of this Law, or with any of the provisions of this Law (for breach or neglect of which no other penalty is by this or any other Law provided) shall upon conviction be liable to a penalty not exceeding Fifty Pounds.

Offences and penalties.

44. If any person shall be convicted of any of the offences following, he shall be liable to be imprisoned and kept at hard labour for any period not exceeding seven years.

- (1) If he shall forge, alter, or imitate, or assist in forging, altering, or imitating any stamp, envelope, or cover, or any money order or postal order, used or made under the authority, or for the purposes of this Law, or shall use, offer, utter, or dispose of, any forgery or imitation of any such stamp, envelope, or cover, or any money order or postal order, knowing it to be forged, or with a fraudulent intent;
- (2) If he shall engrave, or in anywise make upon any plate or material whatever, any stamp used for the purposes of this Law, without the authority of the Executive Government (the proof of which authority shall lie upon the person accused);
- (3) If he shall make, or cause to be made, or assist in making, or have in his custody or possession without lawful excuse (the proof whereof shall lie on the person accused) any mould, frame, or other instrument, having thereon any words, letters, figures, marks, lines, or devices peculiar to paper provided, or used for postage stamps, money orders, or postal orders; or if any person shall make or procure to be made, or assist in making, or have in his custody or possession, without lawful excuse (the proof whereof shall lie on the person accused), any paper, in the substance of which shall appear visible any words, letters, figures, marks, lines, or devices peculiar to paper provided for postage stamps, money orders, or postal orders, and intended to imitate or pass for the same;
- (4) If he shall, without lawful excuse (the proof whereof shall lie on the person accused), sell, purchase, dispose of, or receive, or take, or have in his custody or possession any paper provided for the purpose of being used for postage stamps, money orders or postal orders, before the same shall have been issued for public use;
- (5) If he shall, for his own gain or purposes, or with intent to defraud, make use of any stamp, die, or plate, provided by any person charged with the duty of providing stamps, dies, or plates for the purposes of this Law (A).

(A) See sub-s. 6 added by Law 10, 1887, s. 5, post.

45. In any prosecution for any crime or offence committed upon or in respect of any mail bag, mail box, or mail parcel, or any letter, post card, packet, parcel, or newspaper sent by post, or any property, moneys, money order, or postal order, under the management or control of the Postmaster-General, or when any matter or thing shall have been done or committed with any malicious, injurious, or fraudulent design, intent, or purpose, relating to or concerning the Post Office, or any such property, moneys, money order, or postal order, it shall be sufficient to allege the property to belong to or be in the lawful possession of the Postmaster-General, and any such act, deed, matter, or thing to have been done or committed with intent to injure or defraud the Postmaster-General without setting forth his name.

Law 22, 1884.

In case of prosecution, property in letters posted to be regarded as vested in P.M.G.

46. The Courts of the Resident Magistrates, respectively, shall have jurisdiction for the trial of any offence created by this Law, in respect whereof the penalty which may be imposed shall not exceed Twenty Pounds, or the period of imprisonment which may be awarded shall not exceed Six Months.

Jurisdiction of Magistrates under this Law.

47. No action or suit shall be capable of being brought against the Colonial Government or against the Postmaster-General by reason of any default, delay, omission, or loss, in respect of any letter, post card, packet, newspaper, or parcel posted or received for transmission under the provisions of this Law; or for or by reason or in consequence of payment of the amount of any money order or postal order being delayed.

No action against Government for delay in transmission of letters, &c.

48. If any question arises whether any postal packet is a letter, post card, newspaper, supplement, book packet, circular, or other description of postal packet within the meaning of this Law, or any rule framed under this Law, the decision thereon of the Postmaster-General shall be final, save that the Governor may, if he think fit, on the application of any person interested, reverse or modify the decision and order accordingly.

Decision as to what is a letter, packet, &c., to rest with P.M.G., with appeal to Governor.

49. The Postmaster-General may, in his own name, with the approval of the Governor, enter into any contract in writing for the conveyance as mails within or from or to the Colony of any letters, post cards, parcels, packets, or newspapers mentioned in this Law, and may in like manner be sued thereon or in relation thereto; and shall also employ such number of mail-carriers as may be necessary for the conveyance of such mails throughout the Colony; and may also forward such mails by any other mode of conveyance that he may deem best.

P.M.G. may enter into contracts for conveyance of mails, and employ mail carriers, &c.

50. The Postmaster-General may, by any notice, to be published in the "GOVERNMENT GAZETTE" from time to time define or alter the limits of any city, town, or village within which letters, packets, parcels, and newspapers are to be delivered from the Post Office.

Limits of delivery from Post-offices may be defined by P.M.G.

51. Whenever any penalty shall have been imposed under the provisions of the thirty-sixth, thirty-seventh, thirty-ninth, fortieth, forty-first, and forty-third sections, respectively, of this Law, and the person convicted shall not forthwith pay the same, the Court before which such person is convicted may direct that such person be imprisoned with or without hard labour for any period not exceeding Six Months, and such person shall be detained and kept to hard labour accordingly, unless the penalty be sooner paid.

Power to order imprisonment in case fines not paid.

52. This Law shall come into operation on the 1st day of January, 1885, and may be cited for all purposes as the "Post Office Law, 1884."

Commencement Short title.

Law 22, 1884.

FIRST SCHEDULE (A).

Schedule.

Letters.

INLAND :	On each letter.	One Penny
SHIP :	To be forwarded by private ship, vessel of war, or other ship (not being a mail packet), direct to any foreign country or British Possession with which a convention for the exchange of such mail matter has not been concluded (B).	Sixpence.
SHIPPERS AND CONSIGNEES :	For owners, charterers, or consignees of vessels arriving in any port of the Colony by such vessel.	One Penny

For every half-ounce or fraction of half an ounce.

Newspapers.

INLAND :	On each newspaper for every four ounces or fraction of four ounces.	One Halfpenny.
SHIP :	On each newspaper for every four ounces or fraction of four ounces.	One Penny.

Postal Cards.

INLAND :	On each postal card.	One Halfpenny.
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Packets.

INLAND :	For every ounce or fraction of an ounce (C).	One Halfpenny.
SHIP :	To be forwarded by private ship, vessel of war, or other ship (not being a mail packet), direct to any foreign country or British Possession with which a convention for the exchange of mail matter has not been concluded, for every two ounces or fraction of two ounces (D).	One Penny.

Parcel Post.

INLAND :	Each parcel not exceeding four ounces.	Threepence.
	For each additional four ounces or fraction of four ounces.	Threepence.

Registration.

For the registration of every separate article. Fourpence.

(A) See Law 10, 1887, post, which partly repeals this Schedule, and provides a new scale for Packets,

(B) See Act 26, 1894, s. 1, post.

(C) See note (A).

(D) See Act 26, 1894, s. 1, post.

SECOND SCHEDULE.

Law 22, 1884.
Schedule.

I, _____, do hereby declare that I have to the best of my knowledge, delivered to _____ every mail bag, mail box, mail parcel, letter packet, and newspaper that was on board the (name of vessel) at the time of her arrival at the port of _____ except such letters as are exempt by Law from such delivery.

Signed in my presence }
on the _____ day of _____ }

THIRD SCHEDULE.

Declaration.

(Made pursuant to the provisions of the 42nd Section of the "Post Office Law, 1884.")

I _____ do solemnly and sincerely declare that I will not wittingly or willingly open, or delay, or cause, or suffer to be opened or delayed, contrary to my duty, any Letter or any thing sent by the Post, which shall come into my hands or custody, by reason of my employment relating to the Post Office, except by the consent of the Person or Persons to whom the same shall be directed, or except in such cases where the party or parties to whom such letter or anything sent by the post shall be directed, and who is, or are, chargeable with the payment of the Postage thereof, shall refuse or neglect to pay the same; and except such Letters or anything sent by the Post, as shall be returned for want of true directions, or when the Party or Parties to whom the same shall be directed cannot be found: and that I will not in any way embezzle any such Letter or any thing sent by the Post as aforesaid; and I make this solemn declaration conscientiously intending to fulfil and obey the same; and by virtue of the provisions of the Law No. 13, 1862, entitled "Law to make further provision in respect of the substitution, in certain cases, of Declarations for Oaths."

Declared before me, at }
this _____ day of _____ }
188 _____ }

Law No. 10, 1887.

"To amend certain Sections of the 'Post Office Law, 1884.'"

[17th January, 1887.]

WHEREAS it is expedient to amend certain Sections of the "Post Office Law, 1884":

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

1. So much of the first schedule of the "Post Office Law, 1884," as relates to the rates of postage payable upon inland packets, forwarded through the inland post, is hereby repealed, and in lieu thereof postage shall be levied according to the scale and rates set forth in and by the schedule to this Law.

Amendment of
1st Schedule of
Law 22, 1884.

2. The Governor in Council may from time to time alter the rates of postage payable in respect of inland packets forwarded through the inland post in the Colony, in such manner as to him may seem expedient.

Governor in
Council may
alter rates on
inland packets.

3. The words, "or other valuable enclosure," occurring in Section 18 of the said Law shall be deemed and taken to mean jewellery, precious stones, gold dust, gold nuggets, and other precious metals,

Interpretation
of expression
"or other valu-
able enclosure"
occurring in
Law 22, 1884.

HH 2

Law 10, 1887. and articles of a like nature, and shall not include money orders, postal orders, bank notes, cheques, and other valuable paper securities, the registration of which securities shall be optional with the sender.

Amendment of
sec. 32, Law 22,
1884.

4. The words "nor to any letter sent by any person concerning his private affairs, nor to any letter sent or carried to or from any post office," occurring at the end of Section 32 of the said Law are hereby repealed, and the following substituted therefor: "nor to a letter sent by a messenger on purpose concerning the private affairs of the sender or receiver thereof, nor to any letter sent or carried to or from any post office."

Addition to
sec. 44.

5. There shall be added to Section 44 of the "Post Office Law, 1884," at the end thereof the following enactment: "For the purposes of this section, the word 'stamp' wherever used therein shall in addition to Natal postage stamp mean and include any stamp for denoting a rate of postage of the United Kingdom of Great Britain and Ireland, or of any of Her Majesty's Colonies or of any foreign country."

The above enactment shall be numbered sub-section 6.

Postage not
chargeable on
first issue of
newspapers
published in
Colony, if cer-
tain conditions
fulfilled.

6. From and after the first day of January, 1887, no postage shall be charged on the first issue of newspapers printed and published within the Colony and posted by the publishers within two days of the publication thereof: Provided, such newspapers shall be enclosed in printed wrappers to be approved of by the Postmaster-General, bearing the title of the newspaper and the name and address of the publishers.

This Law to be
read with Law
22, 1884.

Commencement

7. This Law shall be read and construed with the "Post Office Law, 1884," and shall come into operation from and after the date of the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (A).

SCHEDULE.

Packets—[Inland.]

Schedule.

Not exceeding one ounce in weight—One halfpenny.
Exceeding one ounce, but not exceeding two ounces—One penny.
Exceeding two ounces, but not exceeding four ounces—One penny halfpenny.
Every additional four ounces or fraction of four ounces—One penny halfpenny.

Law No. 35, 1887.

"To amend the 37th Section of the Law No. 22, 1884, entitled Law 'To repeal the existing Laws relating to Postal Conveyance, and to make other and better provisions for, and to regulate the conveyance and postage of letters, post cards, packets, parcels, and newspapers.'

[18th July, 1887.]

WHEREAS it is expedient to give greater facilities to vessels arriving at the Port of Natal to report to the Collector of Customs, and for that purpose to amend the 37th Section of the Law No. 22, 1884:

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

Sec. 37, Law 22,
1884, amended.

1. The 37th Clause of the Law No. 22, 1884, entitled Law "To repeal the existing laws relating to Postal Conveyance, and to make

(A) Jan. 25, 1887.

other and better provisions for, and to regulate the conveyance and postage of letters, post cards, packets, parcels, and newspapers," shall be and the same is hereby amended by expunging therefrom the following words occurring therein: "And until such certificate shall have been delivered to the proper officer of Customs at such port he shall not permit such vessel to report." Law 35, 1887.

2. This Law shall commence and take effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (A). Commencement

Law No. 23, 1888.

"To authorise the Post Office Department to issue Postal Drafts for the collection of small sums of money."

[12th November, 1888.]

WHEREAS it is expedient that provision should be made for the collection of small sums of money through the agency of the Post Office by means of Postal Drafts:

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

1. Subject to such regulations as may be made by the Governor under the provisions of this Law, the Postmaster-General may authorise his officers, or any of them, to issue postal drafts and to collect the amounts thereof.

P.M.G. may authorise issue of postal drafts and collection of amounts.

2. No postal drafts shall be issued for a higher amount than Ten Pounds Sterling, nor for any sum which shall include the fractional part of a penny.

Amounts for which drafts may be issued.

3. The Governor may from time to time make, alter, and repeal regulations for all or any of the following purposes:—

Governor may make regulations.

- (1) The fees to be received in respect of the issue to the drawer and presentation to the drawee of postal drafts.
- (2) The charges to be made for the collection from the drawee and transmission to the drawer or other person authorised to receive the same of the amounts for which any such drafts shall have been drawn.
- (3) For regulating the manner in which any fees payable under the provisions of this Law shall be paid and brought to account.
- (4) For regulating the persons by or through whom and the places where and the times when such drafts shall be issued, and the persons by or through whom and the places where and the times when such drafts shall be presented for payment, and the payment of the amounts thereof received.
- (5) For regulating the length of time for which such drafts shall remain current, and the manner in which the demands for the payment thereof shall be made.
- (6) For regulating the conduct of all postmasters and other officers charged with the issue of such drafts and the collection of the amounts thereof.
- (7) For any other purposes whatsoever necessary for the effectual carrying out of the object and provisions of this Law.

(A) Aug. 2, 1887.

Law 23, 1888.

Payments to be
in current coin.
Drafts to be
payable in full.

Demand to be
made by post-
master or other
authorised
officer by regis-
tered letter
posted to
drawee's
address.

If no reply,
draft to be
returned to
drawer.

Presentation of
draft to have
effect as a legal
demand.

Evidence in
suit or action.

Fees and duties
on documents.

Governor may
make conven-
tions with other
countries for
postal draft
system.

Certain acts to
discharge postal
officers from
liability in
respect of
postal draft.

Interpretation
of terms.

4. All amounts payable to the Post Office in respect of any postal draft shall be payable in current coin.

5. Every draft shall be payable in full, and it shall not be lawful for any postmaster or other officer of the Post Office to accept the payment of any sum in instalments.

6. All demands which, under the provisions of this Law, or the Regulations to be framed by virtue thereof, shall have been authorised by the drawer of any postal draft, shall be made by the postmaster, or by some other officer of the Post Office, duly authorised by the Postmaster-General in that behalf by letter, on the form prescribed in the Regulations to be framed under the provisions of this Law; and the letter shall be addressed to the drawee at the address given by the drawer, and shall be forwarded by post, registered, to the nearest Post Office to such address; and in the event of no reply being received to such demand, the postal draft, in respect of the payment of the amount of which such demand shall have been issued, shall be returned to the drawer at the termination of the currency thereof, accompanied by a statement on the proper form, certifying to the non-payment thereof.

7. The presentation in accordance with the provisions of this Law or the regulations to be framed by virtue thereof, of any postal draft, shall be of the same force and effect as a legal demand, and the return of any such draft so presented, by reason of the non-payment of the amount thereof by the drawee, and the report thereon by any postmaster or other duly authorised officer, shall, in any suit or action on the account or claim, in respect of which such draft was drawn, be taken on the mere production of such returned draft, together with the report thereon, as evidence of the facts stated in such report, unless the contrary shall be proved.

8. No receipt, demand, or other document issued under the provisions of this Law shall be chargeable with any fees or duties whatsoever, excepting such as shall be imposed by the regulations made by the Governor under the authority of the third section hereof.

9. The Governor may from time to time make conventions with the proper authorities of any other British possession or foreign country for the institution of a system of postal drafts between this Colony and such other British possession or foreign country as the case may be, and by proclamation in the "GOVERNMENT GAZETTE," define the time when such convention shall come into operation, and the regulations under which it shall be carried into effect.

10. The presentation of a draft to the drawee, or the non-presentation within the prescribed period when the drawee cannot be communicated with, and in the case of payment, the collection of the amount of a postal draft and the transmission of the money in the form of a money order or postal order in a registered letter to the drawer, shall discharge the Postmaster-General and his officers from all liability whatsoever in respect of such draft, notwithstanding any forgery, fraud, or mistake which may have been committed or have occurred in reference to such draft, or to the procuring thereof, or to obtaining payment thereof, or by reason of any default, delay, or loss, in respect of any sum collected or to be collected, and notwithstanding any disregard of any regulations to be framed under the provisions of this Law.

11. In the interpretation of this Law the term "Postmaster-General" shall mean the Postmaster-General of the Colony for the time being; the term "postmaster" shall mean the postmaster or other officer duly authorised to issue or collect the amounts of postal drafts; the term "drawer" shall mean the person in whose favour or

on whose behalf a postal draft shall be issued; the term "drawee" shall mean the person from whom the amount of a postal draft is to be collected. Law 23, 1888.

12. Copies of all regulations and conventions, and orders made by the Governor under the provisions of this Law shall, from time to time, be laid before the Legislative Council within thirty days after the making thereof, if in session, and if not in session, after the commencement of the next session. Copies of regulations, &c., to be laid before Legislative Council.

13. This Law shall come into operation on such day as may be fixed by the Governor by proclamation, and may be cited for all purposes as the "Postal Drafts Law, 1888" (A). Commencement and short title.

Law No. 26, 1888.

"To amend the Post Office Law, 1884."

[12th November, 1888.]

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

1. So much of Section 8 of the "Post Office Law, 1884," as requires that a publication in order to be a newspaper for the purposes of that Law shall be printed on a sheet, or sheets, unstitched, shall be repealed; but such repeal shall not extend to a supplement to a newspaper. Amendment of sec. 8, Law 22, 1884.

Law No. 8, 1890.

"To make provision respecting the conduct of Officers and Servants of the Postal and Telegraph Departments of the Colony."

[28th May, 1890.]

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

1. The Governor may from time to time make, alter, and repeal regulations for the conduct and guidance of all Officers and Servants of the Public Department of Telegraphs of this Colony, and by such regulations may impose any penalty not exceeding Ten Pounds for any offence against any of the same. Governor may make regulations for officers of Telegraph Department.

2. The imposition of penalties by way of fine under any regulations framed under the provisions of Sub-section (3) of the fourth Section of Law No. 22, 1884, entitled "Law to repeal the existing laws relating to Postal Conveyance, and to make other and better provisions for, and to regulate the conveyance and postage of letters, post cards, packets, parcels, and newspapers," and under any regulations framed under the provisions of the first Section of this Law, shall be wholly within the discretion respectively of the Postmaster-General and the General Manager of Telegraphs of the Colony, who may of their own authority impose any such penalties, and whose certificate shall be sufficient authority for the deduction from the salary or wages due to any officer or servant of the Postal or Telegraph Department respectively of the amount of the penalty certified to have been imposed on such officer or servant: Provided that no penalties to be imposed by authority of this section upon any such officer or servant shall in Imposition of penalties under regulations framed under sub-sec. 3, sec. 4, Law 22, 1884, and under this Law to be wholly in discretion of P.M.G. and General Manager of Telegraphs respectively.

Proviso.

(A) Took effect Oct. 1, 1899. See Pn. in G.G. dated Aug. 20, 1889.

Law 8, 1890.
Appeal.

Prosecutions in
Courts of Law.

any one month exceed in the whole seven days' pay of such officer or servant: Provided also that any officer or servant who may feel aggrieved by any such penalty as aforesaid, shall have the right of appeal to the Governor in Council, whose decision shall be final: And provided also, that nothing in this section contained shall be deemed to prevent a prosecution under the aforesaid regulations in a Court of Law, but so that no person shall be twice punished for the same offence.

Act No. 26, 1894.

"To Amend the Post Office Law No. 22, 1884."

[30th July, 1894.]

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:—

Rates for conveyance of mail matter to countries not included in convention, by ships other than mail packets.

1. The rates chargeable for the conveyance of the undermentioned mail matter by private ships, vessels of war, or other ships (not being mail packets) direct to any Foreign country or British possession with which a convention for the exchange of such mail matter has not been concluded shall be:—

For any Letter, per half ounce, or fraction thereof, Twopence Halfpenny.

For any Post Card, One Penny.

For any Newspaper, per two ounces, or fraction thereof, One Halfpenny.

For any Packet of Printed Papers, per two ounces, or fraction thereof, One Halfpenny.

For any Packet of Samples or Patterns, per two ounces, or fraction thereof, One Halfpenny. The minimum charge for any such Packet to be One Penny.

For any Packet of Commercial Papers, per two ounces, or fraction thereof, One Halfpenny. The minimum charge for any such Packet to be Twopence Halfpenny.

Amendment of
Law 22, 1884.

And so much of the first Schedule of the Post Office Law, 1884, as provides for other rates for articles to be forwarded by ships is hereby repealed.

Repeal of sec.
11, Law 22,
1884.

2. Section 11 of the Post Office Law, 1884, shall be repealed, and in lieu thereof the following shall be enacted:—

There shall not be transmitted by post any parcel or packet exceeding such weight, as may from time to time be directed by the Governor by notice published in the "NATAL GOVERNMENT GAZETTE"; or which may be of inconvenient form or dimensions, or may contain, or be suspected to contain, anything likely to injure the other portions of the mail or the person of any individual.

Detection and
disposal of
articles not
prepaid, or
posted in viola-
tion of Law.

3. It shall be lawful for the Postmaster-General or any postal officer to detain any postal article which shall not have been fully prepaid where full pre-payment is required by postal notice to be made, or which shall have been posted in this Colony or in any British possession or Foreign country in violation of any Postal Law or Regulation thereof.

Any article detained as in this Act provided shall be disposed of in such manner as may be provided by Regulations to be approved by the Governor, and published in the "NATAL GOVERNMENT GAZETTE."

Amendment of
sec. 20, Law 22,
1884.

4. The words "or of any Customs Law" occurring in Subsection (4) of Sec. 20 of the Post Office Law, 1884, shall be repealed.

The Postmaster-General or any postal officer may detain any letter or other postal article which shall be known or reasonably suspected to contain anything contravening a Customs Law or liable to Customs duties. And the Postmaster-General may make suitable arrangements with the Collector of Customs for the disposal of any postal article containing an enclosure in contravention of a Customs Law, or for the collection of Customs duties upon anything liable to such duties and enclosed in any postal article detained as herein provided.

Act 26, 1894.
Customs duties and Laws.

5. The words "For every Letter and Packet contained therein, the sum of One Penny; for every Newspaper, One Farthing"; occurring in Section 38 of the Post Office Law, 1884, shall be repealed, and in lieu thereof the following words shall be substituted:—

Amendment of sec. 38, Law 22, 1884.

For every Letter, One Penny (A).

For every Post Card (single or reply), One Farthing.

For every Packet, One Halfpenny.

For every Newspaper, One Farthing.

For every pound weight, or fraction thereof of Parcel matter, Threepence.

6. The Postmaster-General may undertake to obtain for delivery to the sender of any registered postal article an acknowledgment of the receipt of such article from the Postmaster of the delivering office, and he is authorised to charge the sum of Twopence Halfpenny for such service. Such acknowledgments may be obtained from places within the Colony or from offices of the postal administrations of other countries with which the requisite arrangements are made.

Receipts for registered articles.

7. This Act and Laws No. 22, 1884; No. 10, 1887; No. 35, 1887; and No. 26, 1888; shall be construed together as one Act.

Joint construction of laws.

Act No. 12, 1898.

"To amend the 'Post Office Law, 1884.'"

[30th June, 1898.]

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. Section 16 of Law No. 22, 1884, the "Post Office Law, 1884," shall be repealed, and in lieu thereof the following shall be enacted:—

"There shall be no charge for the re-direction or re-forwarding of any letter, post-card, packet, or newspaper; but for any parcel re-directed and re-forwarded there shall be charged for postage from the place at which the same shall be re-directed to the place of ultimate delivery, the ordinary prepaid parcel rate which shall apply at the time from the former to the latter place."

Re-directed postal articles.

2. Section 22 of the "Post Office Law, 1884," shall be repealed, and in lieu thereof the following shall be enacted:

"All letters, post-cards, packets, newspapers, and parcels which shall remain unclaimed at any post-office on the last day of any month, after having lain at such office for a period of at least one calendar month, shall be transmitted to the Returned Letter Branch of the General Post Office."

Transmission of unclaimed letters, &c., to G.P.O.

(A) These words are expunged by substituted: "For every letter one Act 4, 1899, post, and the following halfpenny."

Act 12, 1898.
Notice to Post
Office of
departure of
ships.

3. Section 39 of the "Post Office Law, 1884," shall be amended by inserting therein after the words
"twenty-four hours"
occurring in the 7th and 8th lines thereof, the following words
"except with the special consent of the Postmaster-General."

Act No. 4, 1899.

"To amend Act No. 26, 1894, entitled Act 'To amend the Post Office Law No. 22, 1884.'"

[30th June, 1899.]

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 "For every letter one penny," occurring in the sixth line of Section 5 of Act No. 26, 1894, entitled Act "To amend the Post Office Law No. 22, 1884," shall be expunged, and in lieu thereof the following words shall be substituted:—

For every letter one half-penny.

POUNDS.

[As to Lung sickness in Pounds, see Act 30, 1897, ss. 30-34, tit. "ANIMALS (DISEASES)." As to impounding of cattle supposed to have been stolen, see Act 1, 1899, Part II., tit. "CRIMINAL LAW, VI."]

Act No. 42, 1898.

"To amend the Law relating to the Impounding of Cattle."

[23rd August, 1898.]

WHEREAS it is expedient to amend the Law relating to the Impounding of Cattle:

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:—

1. Law No. 8, 1865, Law No. 25, 1874, and Law No. 16, 1880, and Act No. 11 of 1897 are hereby repealed: Provided that all pounds established and all appointments made under the said Law No. 25, 1874, shall be deemed to have been established and made under this Act. Repeal.

2. This Act may be cited as the "Pound Act, 1898." Short title.

3. In the construction and for the purposes of this Act, if not inconsistent with the context or subject matter, the following terms shall have the respective meanings hereby assigned to them, that is to say:— Interpretation.

"Cattle" shall mean and include all animals of the following tribes:—Horse, mule, ox, ass, sheep, or goat.

"Herd of Cattle" shall be deemed to include animals of the horse, mule, ass, and ox tribes. "Sheep" shall also include goats, and the said terms shall be deemed and taken to mean, include, and apply to any one animal of the said several kinds.

"Stallion" shall mean and include any entire horse above the age of two years.

"Bull" means any bull above the age of one year.

"Ram" means any ram above the age of eight months.

"Poundkeeper" shall mean any person who may have the authorised charge of any pound.

"Occupier" shall mean such person as by virtue of any agreement, lease, or otherwise, is authorised to dwell upon or occupy any lands, either in person, or by any member of his family, or by his servants and stock.

4. This Act shall not apply to any Municipal Borough or any Township constituted under Law No. 11, 1881, nor to unfenced lands of Her Majesty's War Department, nor to any Native Location, save so far as may be enacted in pursuance of the provisions of Act No. 37, 1896 (A). Not to apply to Boroughs or Townships.

5. Nothing in this Act shall be held in anywise to affect pounds established, or to be established, under the provisions of Law No. 19, 1872, or Law No. 11, 1881, or any Acts amending the same. Not to affect Pounds established under certain Laws.

(A) See tit. "NATIVE LAW."

Act 42, 1898.
Governor may establish or abolish Pounds.

6. It shall be lawful for the Governor to appoint convenient places in any part of the Colony for establishing, erecting, and maintaining public pounds, and from time to time whenever it may seem expedient, to abolish any pounds already established, or which may be established under this Act, and establish other pounds.

Governor to appoint or remove Pound-keepers.

7. The Governor may appoint any person to be the keeper of a public pound, and may remove any poundkeeper at pleasure.

Establishment of Pounds and appointment of Poundkeepers to be notified.

8. A notification of the appointment or removal of any poundkeeper, or of the establishment or abolition of any public pound, shall be inserted in the "NATAL GOVERNMENT GAZETTE" and in the "Natal Agricultural Journal," and such notification shall be deemed and taken for all intents and purposes to be evidence that such poundkeeper or pound has been legally appointed, removed, established, or abolished, as in the said notification is mentioned.

Cattle trespassing may be impounded.

9. All cattle trespassing upon any private lands, not being lands such as are mentioned in Section 4, may be legally impounded by the owner or occupier of such land, or by anyone in the employ of or instructed thereto by the said owner or occupier.

Crown Lands and War Department Lands.

Cattle shall not be liable to be impounded when straying upon unleased Crown lands or unfenced lands of the War Department, not used for grazing or agriculture: Provided that lands of the Crown which are built upon or otherwise continuously occupied and used for public purposes, shall, for the purposes of this Act be deemed to be private lands, and cattle trespassing thereon may be impounded.

Right of cattle to outspan.

10. No cattle shall be liable to be impounded whilst lawfully using, in terms of Law No. 9, 1870, any land subject to the right of outspan: Provided always, that any cattle which may have trespassed upon any garden or cultivated ground, or have done any damage to any enclosure, dam, water course, hay, or corn stack, may be lawfully impounded, notwithstanding their being the property of a traveller or person who has outspanned upon the land: And provided further, that notwithstanding the provisions of Section 15 of Law No. 9, 1870, cattle found straying untended on any public road or by-road may lawfully be impounded by the owner or occupier of the land through or alongside which such road or by-road passes.

Cattle not protected by outspan law in certain cases.

Cattle trespassing on unfenced lands in unproclaimed township not to be impounded.

11. In any township not being a borough, and not being a township proclaimed under Law No. 11, 1881, it shall not be lawful for the owner or occupier of any erf or allotment to impound any cattle trespassing on such erf or allotment, or to recover damages in respect of or arising out of any such trespass, unless the said erf or allotment shall be proved to have been, at the time of such trespass, enclosed by a substantial fence as defined in the Fencing Law of 1887.

Description to be given of impounded cattle.

12. Every person impounding cattle shall be bound to send such cattle to the nearest accessible pound and give an adequate description of the same: Provided always, that before a person shall be entitled to impound his adjoining neighbour's cattle he shall be bound, before so sending to the pound, to inform the owner of such cattle, by written or verbal notice, to the intent that the owner may then and there release, upon the payment of all damages, the cattle so seized for the purpose of being sent to the pound, such damages to be calculated according to the scale in Section 13: Provided that such notice shall not be required to be sent unless such cattle shall have been properly branded.

Notice to neighbour.

Owner or occupier entitled to charge damages.

13. The owner or occupier of land on which cattle have trespassed shall, without being required to prove special damage, be entitled to charge as damages according to the following scale:—

Rate of damages.

For trespass on grass land:

For each head of cattle except horses, sheep, and goats, 3d.

For each horse, 6d.

For each sheep, or goat, 1d.

Act 42, 1898.

For trespass on gardens, crops, or other cultivated lands, four times the above rates:

Provided that should he claim a greater amount of damages, such damages shall be determined by appraisal as hereinafter stated in Section 30.

14. Any person sending cattle to the pound (A) shall, unless he appears in person before the poundkeeper, write a note to the poundkeeper, acquainting him with their description and number and the distance in miles, and if damages are claimed shall state also in his note the kind of trespass, and where committed, as also the amount of such damages: Provided always, that when any animal shall be taken to the pound by the owner or occupier of the property trespassed upon, in person, then his verbal statement shall be taken, and be recorded by the poundkeeper, and shall be of the same effect as any such note in writing as aforesaid.

Person impounding cattle to send note to Poundkeeper unless he impounds them in person.

15. On delivery of cattle at the pound, the poundkeeper (if required) shall at once pay the person delivering such cattle mileage at the rate of sixpence per mile for the first ten miles, and threepence per mile for each mile between ten and twenty miles, but never to more than one person, except it shall be shown to the satisfaction of the poundkeeper that more than one person was necessarily employed; ~~thing hereinbefore provided, if any distance exceeds~~ "Notwithstanding any asses delivered at the pound unless or until the same are released or sold in accordance with the provisions of this Act."

Mileage.

remain on his land for upwards of forty-eight hours, except with the consent of the owner of such cattle, after ascertaining that such cattle are running upon the land; and in default he shall be liable to a penalty not exceeding Twenty Shillings Sterling for each head of such cattle, except sheep or goats, and for sheep or goats, so allowed to remain, two shillings for each such sheep or goat: Provided that such penalty shall in no case exceed Five Pounds Sterling.

their owner's consent.

17. A person who has seized cattle for the purpose of sending them to the pound shall be prohibited from tying them up, or confining them in a kraal or other enclosure, without food and water, for a longer period than six hours during the day time; and shall be required to send them to the pound within twenty-four hours after

Detention of cattle.

Destruction of asses found trespassing

17 bis. Notwithstanding anything to the contrary in this Act contained, it shall be lawful for the owner or occupier of land upon which any ass is trespassing, to destroy the same if it is not clearly marked or branded with a distinguishing mark or brand, or he does not know or cannot with reasonable diligence ascertain to whom it belongs.

not to be worked,

keeper to and main-Pound,

sensation ew Pound r Act 30,

21. The poundkeeper shall take care of all cattle impounded and turn them out to graze daily on suitable grazing land for at least nine hours between sunrise and sunset and under the care of a herd.

Care of impounded cattle.

22. The poundkeeper shall be responsible for any cattle which may be lost during the time they may be impounded, unless he shall prove that such loss was not caused by his neglect or carelessness

Poundkeeper responsible for cattle lost while impounded.

(A) As to impounding of cattle suspected to have been stolen, see Act 1, 1899, s. 13, tit. "CRIMINAL LAW," p. 40.

Act 42, 1898. or the neglect or carelessness of his herdsman or other person employed by him.

Substitute for Poundkeeper. 23. The poundkeeper shall take care that in his absence some other person shall be on the spot to act for him, for whose conduct in the observance of the duties of poundkeeper he shall be responsible and liable as if he had been present in person.

Receipt to be given for impounded cattle. 24. The poundkeeper shall at all times receive into the pound (except as hereinafter provided) all cattle delivered at the pound as provided in the foregoing sections, and give a receipt for the same, signed by himself or someone acting on his behalf, in form according to Schedule A of this Act; and on the release of any cattle shall give a receipt in form according to Schedule B of this Act.

Fees. 25. For the cattle so impounded the poundkeeper shall be entitled to charge the following fees:—

	s.	d.
For every horse	1	0
For all cattle, except horses, sheep, and goats, per head	0	6
For every sheep or goat	0	2

Stallions, bulls, and rams to be herded apart. For herding the poundkeeper shall charge a fee of twopence per day for every head of cattle, except sheep or goats, and for sheep or goats he shall charge one half-penny per head per day for the period during which the said cattle, sheep or goats shall have been impounded, which shall be paid by the person claiming such cattle, sheep or goats: Provided, it shall be compulsory on poundkeepers to herd all stallions, bulls, and rams, apart from any mares, cows, or ewes which may be in the pound, and the poundkeeper shall be entitled to charge herding fees as follows:—For stallions, One Shilling per head per day; for bulls, One Shilling per head per day; for rams (either sheep or goats), Threepence per head per day.

Cattle to be delivered up on payment of fees. 26. When any person shall claim impounded cattle such cattle shall immediately be delivered up to him on his paying the impounding fee, the herding fee, the mileage which may have actually been disbursed by the poundkeeper, and the damages payable under the provisions of this Act: Provided, however, that the poundkeeper may require the person so claiming the cattle to satisfy him that such person is entitled to the possession of the cattle.

Proof of ownership. 27. Should any animal sent to the pound be affected with any contagious or infectious disease the poundkeeper may refuse to receive such animal into the pound; but if any animals so sent be affected with contagious or infectious disease the poundkeeper shall deal with them as the law directs; and in case any animal received into the pound shall prove to be dangerously vicious, the poundkeeper shall apply to the Magistrate, who shall make such order thereupon as he shall see fit.

Animals infected with contagious or infectious disease, how dealt with. 28. The poundkeeper shall not, under pain of contravening this Act, use or cause to be used any animal sent to the pound. He shall, moreover, be liable to the owner for any damage done by him, or any of his servants, to any cattle impounded.

Poundkeeper not to use impounded cattle. 29. Whenever the owner of any impounded cattle, or anyone in his behalf, shall apply to the poundkeeper to release the same, but be unable at once to pay the pound fees and other charges lawfully made, the poundkeeper shall deliver up the said cattle, only retaining a sufficient number from which to recover all such charges up to the time of the release or sale of the number so retained, as the case may be.

Poundkeeper may detain cattle as security. 30. In every case in which damage shall be done by any cattle to any garden or crop growing on cultivated land, or trees, or to any enclosure, dam, watercourse, hay, or corn stack, it shall be lawful for

Damages, how to be estimated.

the person damnified, or other person acting on his behalf, forthwith to estimate, with the assistance of two disinterested persons being land owners or registered voters, the extent of such damage; and such estimate shall be set forth in the note required by Section 14 of this Act to be transmitted to the poundkeeper along with the cattle; or if the cattle shall have been sent to the pound before such estimate could reasonably be made, then such estimate shall be notified so soon as possible thereafter, and a fee not exceeding Three Shillings Sterling, independent of horse hire, if incurred, may be paid or contracted to be paid to each person employed to estimate such damages; and such persons shall sign an acknowledgment thereof, endorsed upon such note.

31. Where such damage shall have been so set forth in such note, the poundkeeper shall be entitled and bound to hold a sufficient number of such cattle, to be pointed out by the owner, if he should desire it, to cover the amount of such damage; and he shall not release them on the mere payment of the poundage charges, unless in addition thereto a sum of money sufficient to cover such damage shall be deposited in his hands, or sufficient security, by a written guarantee, given to the satisfaction of the poundkeeper or the person impounding, for the payment of such damage, and the cost of assessing the same, or the person sending the cattle to the pound shall consent to their release, or such release shall be ordered by the Magistrate or other competent authority.

Cattle may be detained as security for damage.

32. When the owner or person in charge of such cattle shall be dissatisfied with the estimate so put upon such damage, or with a charge made for trespass on cultivated land, when such charge is more than the amount which would be payable under this Act for trespass on grazing land, he shall be entitled, after due notice served upon the person impounding such cattle to appeal, by verbal application, to the Magistrate of the Division within which such damage shall have been committed, or to the Magistrate of the Division within which the pound to which such cattle shall have been sent shall be situated; and such Magistrate, on hearing such evidence as may be tendered, shall decide on such application summarily, and may order such cattle to be released, although the pound in which they may be impounded should not be situate within his Division. And such Magistrate shall also make such order as to the costs of such application as he shall deem just: Provided always, that even after the amount of damages shall have been paid, it shall be lawful for the owner of such cattle or the person in charge of the same to appeal to the Magistrate of the Division in which the pound may be situate, or in which the trespass may have been committed; and in every such case the Magistrate may make such order for the repayment of any amount of the damages so paid, together with impounding fee, mileage and herding for such cattle, and to make such order as to costs as he may see fit: Provided further, that such appeal be noted and notice thereof given to the respondent within ten days after such cattle have been released from the pound, or within ten days from the date of the appraisalment of the damage caused, when no impounding of the cattle shall have taken place, and the decision of the Magistrate in any case under this section shall be final, and not subject to review or appeal when the amount of such judgment or decision, exclusive of costs, shall not exceed the sum of Fifteen Pounds Sterling.

How owner to proceed when dissatisfied with estimate of damages.

Magistrate to decide summarily.

Costs.

Appeal to Magistrate.

Notice of appeal.

33. In every case where cattle impounded under this Act are claimed or released by different persons, the poundkeeper shall divide and apportion the amount of mileage fees and damage incurred to be paid by the several claimants, according to the number of cattle respectively released by them.

Apportionment of mileage fees.

Act 42, 1898.

Unclaimed cattle found advertised and sold, and damages paid out of proceeds.

34. Should any cattle impounded for trespass as stated in the preceding sections not be released, such cattle shall be advertised and sold under the regulations provided for the sale of impounded cattle in this Act, and out of the proceeds of the sale of such cattle the poundkeeper shall be bound forthwith to pay the estimated amount of such damage, and the costs of assessing the same: Provided, that, unless someone claiming such cattle shall have applied for their release, the poundkeeper shall not be entitled to make such payment without the production, by the person applying therefor, of an authority from the Magistrate to receive such payment; and the Magistrate may require proof of the extent of such damage, and may also allow the applicant for such authority the costs of the application.

Poundkeeper's cattle found straying to be sent to next pound.

35. When cattle found trespassing or committing damage shall be the property of the poundkeeper, or person acting for the poundkeeper of the nearest pound, it shall be optional to the person on whose ground they shall be so found trespassing or committing damage, to send them to the pound whence they have strayed, or to the next nearest pound, and if he should elect to send them to such next nearest pound, he shall be entitled to receive from such poundkeeper, or person acting for him, a sum equal to one-half of the poundage charges payable for such cattle, in addition to the mileage dues, irrespective of damages to which he may be entitled.

Cattle on their way to Pound to be released on tender of damages and mileage.

36. Whenever any person claiming cattle seized for the purpose of impounding them shall tender payment of the damage legally charged or assessed, with fees due to the assessor, and mileage, if incurred, before such cattle shall be impounded, the cattle shall be immediately released and given up, but such tender shall not debar such owner from appealing to the Magistrate, if he shall think that the claim of compensation for damage was illegal or excessive.

Poundkeeper's book.

37. The poundkeeper shall keep a book in the form of Schedule C, in which he shall make true and correct entries of all transactions relating to cattle impounded.

Lists of impounded cattle to be sent to Colonial Secretary and advertised.

38. On the first and fifteenth days respectively of every month the poundkeeper shall transmit a descriptive list, as near as may be according to the form of Schedule D, of all cattle then in the pound (A), to the Colonial Secretary, who shall cause the sale of such cattle to be advertised in a Government Notice in the next issue of the "NATAL GOVERNMENT GAZETTE" and in two local newspapers, and shall in such Government Notice fix the day of sale to take place on the first and third Wednesdays of every month: Provided such day of sale shall not be fixed within thirty days from the date of such publication, save as is specially provided in the case of stallions, bulls, and rams: Provided further that when and so often as the above-named days of sale shall fall on public holidays, then the sale shall be fixed for the next lawful day thereafter.

Advertised cattle, unless previously released, to be branded and sold.

39. All cattle thus advertised, unless previously released, shall on the day appointed for the sale be effectively branded on the right shoulder with the letter P. (for which the poundkeeper shall be entitled to charge One Shilling for every animal branded other than sheep or goats, and for each sheep or goat One Penny), and shall be sold by the poundkeeper, or by someone acting on his behalf, for cash; and all such sales shall take place by auction at the public pound where the said cattle shall have been impounded, and shall commence at the hour of noon, and the poundkeeper shall neither personally, nor by any other person, either directly or indirectly, purchase any of the

Poundkeeper not to purchase cattle directly or indirectly.

(A) See *Marais v. Gilmour*, 9 N.L.R. 20, where a poundmaster was held liable in damages for the defective description of cattle.

said cattle, and every person offending herein shall on conviction forfeit and pay for every such purchase contrary to the true intent and meaning hereof any sum not exceeding Fifty Pounds Sterling.

Act 42, 1898.

40. The poundkeeper shall not be required to take out an auctioneer's license for the sale of any impounded cattle, nor shall he be bound to account for any fee or duty to Government in respect of such sale. All animals sold from the pound shall be put up for sale and sold singly, except mares with foals, and cows with calves; also sheep and goats, which may, at the discretion of the poundkeeper, be put up in lots not exceeding ten in number.

Poundkeeper need not be licensed.

Animals to be sold singly.

41. The poundkeeper shall receive the price of any impounded cattle sold under this Act, and, subject to any rules in that behalf, he shall apply the same first in the payment of all lawful fees and other authorised charges, next in payment of the sum due to the person at whose instance the same were impounded, and the residue he shall pay over forthwith to the Magistrate. Such moneys shall then be held for the person entitled thereto, who, upon giving such proof as the Governor shall require, may demand and receive such moneys, and if no claim thereto be established within two years the moneys shall become forfeited to the Government.

Proceeds of sale, how to be applied.

42. The occupier of any land whereon are found running strange cattle too wild to be driven to the pound shall be bound, within forty-eight hours after ascertaining that such cattle are running upon the said land, to send to the nearest accessible poundkeeper a verbal or written description of the said cattle, together with a verbal or written statement to the effect that the cattle so running are too wild to be driven to the pound; and in default he shall be guilty of a contravention of this Act. This section and the following sections which refer to cattle too wild to be driven to the pound shall not apply to sheep or goats.

Cattle too wild to be driven to pound.

Not applicable to sheep or goats.

43. The poundkeeper shall satisfy himself, by personal inspection, that such cattle are according to the description given, and are too wild to be driven to the pound; the expense of such inspection as against the owner shall be at the rate of One Shilling per mile, and shall not exceed Twenty Shillings Sterling in all, and in case such cattle are not too wild, as reported, then the inspection fee shall be paid by the person reporting. If the poundmaster can find any person able and willing to take the cattle to the pound he may engage such person to do so for a fee not greater than that authorised by Section 15, and such cattle shall thereafter be impounded and dealt with as ordinary cattle.

Poundkeeper to personally inspect wild cattle and to charge fee for inspection.

44. It shall be the duty of the poundkeeper, on receipt of the description of the cattle, and after inspection thereof, to enter the same in a book, according to the form of Schedule E, and in case of a verbal description the entry shall be made in the presence of, and read over and explained to, the informant by the poundkeeper.

Poundkeeper to enter description of wild cattle in special book.

45. On the first and fifteenth days respectively of each month the poundkeeper shall transmit a descriptive list, as near as may be according to the form of Schedule F, to the Colonial Secretary, who shall cause the same to be advertised in the manner provided in Section 38 of this Act.

List of cattle to Colonial Secretary.

46. All cattle so advertised (unless previously claimed) shall be sold by the poundkeeper on the day appointed, as far as possible in accordance with the provisions of Sections 39 and 40 of this Act: Provided, that neither the Government nor the poundkeeper shall be responsible for the delivery to the purchaser of the animal or animals thus sold.

Cattle to be sold without responsibility for delivery.

Act 42, 1898.

Proceeds of sale,
how to be
applied.

47. From the proceeds of the sale of cattle too wild to be driven to the pound the poundkeeper shall, if required, pay to the informant mileage and trespass fees after the rate set forth in Sections 13 and 15 of this Act, and damages which may be claimed in accordance with Section 30; and he shall be entitled to charge for making the necessary entry, and for his trouble in selling such animal or animals, fees as follow:—

	s.	d.
For every horse, mule, or ass	2	6
For every other head of cattle	2	0

And the residue, after the further deduction of not more than Twenty Shillings Sterling for the cost of inspection, shall be paid over in the manner provided in Section 41.

Poundkeeper's
certificate.

48. The poundkeeper shall give to the purchaser a certificate setting forth a detailed description of the animals, the date on which they were sold, and the name and residence of the said purchaser in full, together with the name and situation of the farm on which the animals have been running, and by whom the information has been given; and the person named in the said certificate, or any person deputed by him, may enter on the said farm within one week from the day of sale and remove therefrom the animals described in such certificate.

Right of
removal.

Payment of
damages before
removal.

49. After such cattle shall have been advertised as set forth in Section 45 no person shall remove any such cattle from the farm on which they may be running until he has first paid all fees and other charges incurred with reference thereto.

Owner of
stallion, bull, or
ram trespassing
liable to fine.

50. If any stallion, bull, or ram, the property or in the lawful possession of any person, shall stray upon any private or Crown land, or upon any village or town land not being within the boundaries of any borough or statutory township, such person shall, upon conviction, be liable to a fine not exceeding Ten Pounds Sterling for each stallion, Three Pounds for each bull, and One Pound for each ram; and if such stallion, bull, or ram shall have come in contact with complainant's horses, cattle, or flocks, he shall be liable to a fine of Fifteen Pounds Sterling for each stallion, Five Pounds for each bull, and Two Pounds for each ram.

Poundkeeper to
advertise particu-
lars of every
stallion, bull, or
ram impounded.

51. Whensoever any stallion, bull, or ram shall have been impounded, the poundkeeper shall forthwith cause an advertisement to be inserted in the "NATAL GOVERNMENT GAZETTE," and in one at least of the local newspapers, containing the description and probable value of the stallion, bull, or ram, the date of impounding, and the name of the person who impounded the same, and shall further state that such stallion, bull, or ram will be sold at the expiry of one month from the date of such advertisement unless previously released.

Statement to be
furnished to
poundkeeper.

52. Any person impounding any stallion running among the impounder's mares, or bull among the impounder's cattle, or ram among the impounder's flocks, shall deliver to the poundkeeper a statement in writing, containing the name of the farm on which and the date when any stallion, bull, or ram was found so running. And every such poundkeeper, after he has ascertained the name of the owner or of the person having lawful possession of such stallion, bull, or ram, shall transmit the said statement, together with the name of the person impounding the said stallion, bull, or ram, and of the owner or person having lawful possession thereof, to the Chief Officer of Police of the District in which the owner of said stallion, bull, or ram, or the person having lawful possession of the same may be resident, or in which the farm may be situate.

53. Nothing in the foregoing section contained shall prevent any person from suing for and recovering in any competent court any damage he may have sustained by reason of the trespass of any stallion, bull, or ram. Act 42, 1898.
Private person may sue for damages.

54. The poundkeeper shall be bound to produce his books for inspection of any person applying, or to the Magistrate whenever required. Poundkeeper bound to produce books.

55. If any person shall, by threats or violence or otherwise, rescue, or attempt to rescue, or shall incite or assist any person to rescue any cattle which shall be on the way when being taken to the pound, or which shall have been lawfully seized for the purpose of being impounded, or shall break down, injure, or destroy any pound, legally constituted, whether any cattle shall be impounded therein or not, or shall commit any pound breach or rescue whereby any cattle of any description shall escape or be at large from any such pound, or shall rescue, or attempt to rescue, or in any manner interfere with any cattle which may have been impounded, and then in the charge or custody of any poundkeeper or his herdsman, every such person, upon conviction of any such offence, shall be liable to a fine not exceeding Ten Pounds Sterling, and in default of payment to be imprisoned, with or without hard labour, for any term not exceeding three months. Punishment for rescue and pound breach.

56. Any person who shall wilfully and illegally seize any cattle for the purpose of impounding the same, or who shall wilfully and illegally impound any cattle, shall upon conviction be liable to a fine not exceeding Ten Pounds Sterling, and in default to be imprisoned, with or without hard labour, for any term not exceeding three months. Punishment for illegal impounding.

57. If any animal shall be illegally seized or illegally placed in the pound the person so illegally seizing or impounding shall, in addition to any criminal prosecution which he may incur, be liable to the owner to repay or make good all damages, costs, and charges arising out of such illegal seizure or impounding, together with an additional sum of double the amount of the pound fees paid for such animal. Damages for illegal seizure or impounding.

58. Poultry and pigeons trespassing upon and doing damage to any garden, cultivated land, dam, watercourse, corn, or hay, on any private lands, may lawfully be destroyed. Poultry and pigeons.

59. This Act shall apply to pigs in the same manner as it applies to sheep; but this shall not be taken to mean that any provisions which refer specially to rams shall apply also to boars. Every poundkeeper shall set aside a separate enclosure in his pound for pigs, and he shall be obliged to maintain the same in a suitable condition for the confinement and housing of pigs. Act applies to pigs in same manner as to sheep.

60. The Governor in Council may make any rules necessary for carrying out this Act. The contravention of any rule shall be deemed a contravention of this Act. Rules.

61. For any contravention of any requirement of this Act for which no special provision has been made the person contravening shall be liable to a fine not exceeding Five Pounds Sterling, or in default of payment to imprisonment, with or without hard labour, not exceeding one month. Contraventions not specially provided for.

62. All contraventions of this Act shall be cognizable in the Courts of the Magistrates. Contraventions, how cognizable.

POUNDS.

Act 42, 1898.

SCHEDULE A.

Schedule A.18...

..... Pound,
.....18...

.....head of.....
Received from.....
.....
residing at.....

Received from.....
residing at.....
.....head of.....
as described on back hereof.

Miles at.....
Trespass at.....
Other Fees.....
£.....

Fees, as below, forwarded you herewith.

(Description on back).

Miles, at
Trespass, at
Other Fees

	£	s.	d.
£			

.....
Poundkeeper.

SCHEDULE B.

Schedule B.18...

..... Pound,
.....18...

Released to.....
.....
residing at.....
.....
.....head of.....

Received from.....
residing at.....
fees due on.....head of.....
(as described on back hereof) as follows:—

Entrance fee.....
Mileage at.....
Damage or Trespass
.....
Herding fee.....
Other Fees.....

Entrance Fees... ..
Mileage
Damage or Trespass
Herding Fee
Other Fees

	£	s.	d.
£			

(Description on back).

.....
Poundkeeper.

Act 42, 1898.
Schedule C.

SCHEDULE C.
Form of Poundkeeper's Book.

Remarks.	
Particulars of release or sale.	
Time when released or sold.	
How disposed of.	
For what cause impounded.	
By whom impounded.	
Owner.	
Brands and Marks.	
Particulars of cattle impounded.	
Time.	
Date.	

SCHEDULE D.

Form of Advertisement in the NATAL GOVERNMENT GAZETTE,

Schedule D

Impounded at (here state the place and the number and kind of Cattle, and where and how branded, and the particular sex, colour and descriptive marks of each).

If not claimed and expenses paid to be sold at noon on at the abovenamed pound.

A. B.,
Poundkeeper.

Act 42, 1898.
Schedule E.

SCHEDULE E.
Register of Animals too wild to be driven to the Pound.

Remarks.	
Amount realised by sale.	
Sold to, or released by whom.	
Time when released or sold.	
How disposed of.	
Inspector's Report.	
When inspected.	
Name of owner or occupier of farm, or informant.	
Running on the farm, belonging to	
Brands and Marks.	
Description of Animals.	
Date of information.	

SCHEDULE F.

(Form of Advertisement in NATAL GOVERNMENT GAZETTE.)

Schedule F.

Running on the farm [here state name and locality of farm and the names of owner or occupier] and reported to be too wild to be driven to the pound, the following cattle:—[here state the number and kind of cattle, and where and how branded, and the particular sex, colour, and descriptive marks of each.]

If not claimed and expenses paid, will be sold at this pound on [here state date of intended sale].

PREScription.

[The Principal Statute, amending the Common Law on this subject, is Law No. 14, 1861, but actions against particular classes of persons, such as Justices of the Peace, Magistrates, &c., or for acts done under the provisions of certain Laws, e.g., "The Custody of Lunatics Law, 1868," are limited by special provisions in various Statutes. Some of these enactments are set out under this Title for convenience of reference merely: The list must not be taken to be complete. The notes referring to English cases annexed to Law No. 14, 1861, are taken from Chitty's Statutes, and are put forward with all reserve.]

Ordinance No. 32, 1827 (A)—Cape of Good Hope.

"Ordinance for creating Justices of the Peace in this Colony."

[11th December, 1827.]

12. And be it further enacted, that no action shall be brought against any Justice of the Peace, for any thing done in the execution of his office, or against any constable, or other officer, or person acting as aforesaid, unless commenced within six calendar months after the act committed.

Limitation of action against Justice of the Peace, constable, &c.

Law No. 9. 1858.

"To repeal Ordinance No. 26, 1846, extending to the District of Natal certain provisions of the Cape Ordinance No. 60, 1829, entitled 'Ordinance for preventing the mischiefs arising from the printing and publishing newspapers, and papers of a like nature, by persons not known, and for regulating the printing and publication of such papers in other respects; and also for restraining the abuses arising from the publication of blasphemous and seditious libels'; to enact other regulations in lieu thereof; and to regulate the transmission of newspapers by post" (B).

[10th April, 1858.]

12. All pecuniary penalties under this Law may be sued or prosecuted for the use of Her Majesty, in the name of Her Majesty's Attorney-General, within three calendar months next after the act committed, and not afterwards; and notice in writing of such proceeding, and the cause thereof, shall be given to the defendant or defendants one month before the commencement of such proceeding.

Limitation of proceeding in respect of penalties under Newspaper Law.

Law No. 14, 1861

"For Amending the Law regarding the period of time by the lapse of which certain Suits and Actions become barred by Prescription."

[16th August, 1861.]

WHEREAS certain debts and demands, of such a nature that they ought, if just and true, to have been recovered without any unreasonable

(A) This Ord. is made applicable to this Colony by Ord. 6, 1846, tit. "JUSTICES OF THE PEACE."

(B) See this Law in full, tit. "NEWSPAPERS."

Law 14, 1861. delay, do not, by law, become barred by prescription until after the expiration of thirty years, or upwards, from the date when they became due (A): and whereas it is expedient to amend the Law in this respect, so as to protect the public, and especially the heirs of deceased persons, against such debts and demands as aforesaid, when set up at a date so remote as to lead to a presumption that they must have been settled and satisfied, although from accident or inadvertence no positive evidence of that fact has been preserved:

BE IT THEREFORE ENACTED by the Lieutenant Governor of the Colony of Natal, by and with the advice and consent of the Legislative Council thereof, as follows:—

Former Laws and usages repealed.

1. All former laws and usages, in so far as they may be repugnant to, or inconsistent with any of the provisions of this Law, shall be, and the same are hereby repealed.

Actions upon promissory notes, or other liquid documents, cannot be brought after the expiration of six years.

2. Except (B) as hereinafter is excepted, no suit or action (C) upon any Bill of Exchange, promissory note, or other liquid document of debt, of such a nature as to be capable of sustaining a claim for the sort of interlocutory judgment commonly called a "provisional sentence," shall be capable of being brought at any time after the expiration of six years (D) from (E) the time when the cause of action upon such liquid document first accrued (F), or in case any such cause of action shall have already accrued, then after the expiration of six years from the time of the taking effect of this Law: Provided, that nothing in this Law contained shall extend to, or affect any Mortgage Bond, or any judgment or order of any court in this Colony or elsewhere (G).

Provisions of last section to extend to actions for money due, goods sold and delivered, &c.

3 (H). The provisions of the last preceding section shall extend and apply to the respective suits and actions (I) following, that is to say: to suits and actions for money due, for goods sold and delivered (K),

(A) This appears to be a declaration of the Common Law, applying to all claims not dealt with by the provisions of this Law, e.g., a claim for damages.

(B) See the meaning of this exception discussed, per Connor, J., in *Otto v. Grové*, N.L.R. 1871, p. 32. See also per Connor, J., in *Colonial Treasurer v. Coetzee*, N.L.R. 1872, p. 40, "the Crown and the revenue of a country ought to be specially mentioned in a Law in order to include them."

(C) In England the Limitation Act, 1623 (21 Jac. 1, c. 16), extends to defences of set-off, &c., as well as actions, so that a debt barred by the Statute could not be set off, and if such debt be pleaded in bar to the action, the plaintiff may reply the Statute. (*Remington v. Stevens*, 2 Stra. 1271). But a set-off is not barred unless the six years have expired before the action is brought (*Walker v. Clements*, 15 Q.B. 1046. See *Williams v. Griffith*, 3 Exch. 335).

(D) It was held to be no answer to a plea of the English Statute, that after the cause of action accrued, and after the Statute had begun to run, the debtor, within the six years, died, and that (by reason of litigation as to the right of probate) an executor of his will was not appointed until after the expiration of the six years, and that the

plaintiff sued such executor within a reasonable time after probate granted (*Rhodes v. Smethurst*, 4 M. & W. 42; affirmed 6 M. & W. 351; and see *Penney v. Brice*, 18 C.B., N.S. 393).

(E) In seeking to fix "the time when cause of action first accrued," under the provisions of this Law, assistance may be derived from the decisions upon 21 Jac. 1, c. 16, given in the next section, but as the Imperial Act and this Law differ so widely in form the effect of the cases in this Colony may possibly be open to argument.

(F) A note payable on demand is payable immediately, and it is considered that the Law would begin to operate from the date of the note (see *Christie v. Fonsick*, 1 Selw. N.P. 11th ed. 372; *Norton v. Ellam*, 2 M. & W. 461; *Hartland v. Jukes*, 32 L.J., Ex. 162). As to action on undated cheque, see *Bethell v. Bethell*, 34 Ch. D. 561.

(G) A lien is not destroyed by 21 Jac. 1, c. 16, though the demand in respect of which it arises is barred by the Statute (*Spears v. Hartly*, 3 Esp. 81).

(H) See note (E).

(I) See note (C).

(K) On a sale of goods on credit, 21 Jac. 1, c. 16 begins to run from the time when the credit expired (*Helps v. Winterbottom*, 2 B. & Ad. 431).

for money lent by the plaintiff to the defendant (A), for money paid by the plaintiff for the use of the defendant (B), for money had and received by the defendant for the use of the plaintiff (including the "condictio indebiti"), for rent (c) upon any lease or contract for hire not being a liquid document, for money claimed upon or by virtue of a verbal admission of an amount due upon an account stated and settled, for money due upon an award of arbitrators, for money due as the purchase money of fixed property where such purchase money is not claimed under any liquid document as hereinbefore defined, for money claimed for work and labour done, and materials for the same provided, and for money claimed upon or by virtue of any policy of assurance. Law 14, 1861.

4. No suit or action for the fees, or for the fees and disbursements of advocates, attorneys, public notaries, conveyancers, land surveyors, or persons practising any branch of the medical profession; nor any suit or action for the price of drugs, medicines, or groceries supplied by retail; or for the amount of any baker's, or butcher's, or tailor's, or dressmaker's, or boot and shoe-maker's (D), bill or account; nor any suit or action for the salary or wages of any merchant's clerk, or other persons employed in any merchant or dealer's store, counting-house, or shop; nor any suit or action for the wages as a servant of any person coming under the definition of the term "servant," given in the Master and Servant's Ordinance, shall (except as hereinafter is excepted) be capable of being brought at any time after the expiration of two years from the time when the cause of action in any case as aforesaid first accrued, or in case such cause or action shall have already accrued, then, after the expiration of two years from the time of the taking effect of this Law, provided, that as often as any acknowledgment of, or promise in writing to pay (E) any such debt as is in this section mentioned shall have been made or given at any time before the expiration of such term of two years, then such debt may be sued for at any time within six years from the date at which the said debt became, by or according to the tenor or effect of such acknowledgment or promise, due and payable. And provided that nothing in this section contained shall prevent the application of any such debt as is in this section mentioned of any of the provisions of the seventh section of this Law.

What suits or actions cannot be brought after expiration of two years.

5. If at the time when any such cause of action as is in the second, third, and fourth sections of this Law mentioned, first accrued, the person to whom the same accrued shall have been a minor, or under coverture, or of unsound mind, or absent from the Colony, then such

Causes for exceptions to second, third, and fourth sections.

(A) Where the lender of money gives the borrower a cheque for the amount of the loan, 21 Jac. 1, c. 16 does not begin to run until the cheque is paid (*Garden v. Bruce, L.R., 3 C.P. 300; 37 L.J., C.P. 112*).

Money deposited with a banker by his customer in the ordinary way, is money lent to the banker with the superadded obligation that it is to be paid when called for by cheque (*Foley v. Hill, 2 H.L.C. 28*); and consequently, if it remains in the banker's hands for six years, without any payment by him of the principal or allowance of interest, the Statute of Limitations is a bar to its recovery (*Pott v. Clegg, 16 M. & W. 324, dubitante Pollock, C.B.*)

(B) In the case of principal and surety each sum paid by the surety is in ease of the principal, for which he

has a right of action the instant it was paid, for so much money paid to the principal's use, and the Limitation Act, 1623, begins to run (*Davies v. Humphreys, 6 M. & W. 153*).

(C) The statute held to be a good defence to an action by a landlord for rent against a person who had once been his tenant from year to year, but who had not within the last six years occupied the premises either actually or constructively, or paid rent or done any act from which a tenancy could be inferred, although the tenancy had not been determined by notice to quit (*Leigh v. Thornton, 1 B. & A. 625*).

(D) This does not apply to general dealers selling boots, &c., (*Willson v. Adams, 7 N.L.R. 129*).

(E) See *Clark v. Jee's Executrix, 15 N.L.R. 118*.

Law 14, 1861. person, or the person claiming through him, may, notwithstanding that the period of prescription hereinbefore limited in regard to such cause of action shall have expired, bring a suit or action upon such cause of action at any time within six years, or two years, (as the case may be) next after the time at which the person to whom such cause of action first accrued shall have ceased to be under any such disability as aforesaid, or shall have died, whichever of these two events shall have first happened.

This Law not to extend to alter existing Law in certain cases.

6. Nothing in this Law contained shall extend to alter the existing Law, relative to the effect of a judicial interpellation by the creditor of his debtor in staying or interrupting the course of any incompleated term or period of prescription, which Law shall apply in all respects to the term of prescription by this Law established, precisely as if such term were the term now by law established (A).

Certain questions to be determined by the same rules and principles as in Courts of Record at Westminster.

7. In any suit or action in this Colony in which any question shall arise concerning the effect of any acknowledgment of debt, or any promise to pay any debt, or any payment of interest on any debt, or any part payment of the principal of any debt made by any person whomsoever, whether the person sought to be charged in such suit or action or not, in taking any cause of action out of the operation of this Law, such question shall be judged of and determined in this Colony in like manner and by the same rules and principles as it would be judged of and determined in any of Her Majesty's Courts of Record at Westminster, in case the effect of the same acknowledgment, promise, or payment were in question at the same time in any of such last-mentioned courts (B).

(A) Issue of a summons which is not served is not a judicial interpellation within the meaning of this section; and does not interrupt prescription (*Hartley v. Umkanganyeki*, 10 N.L.R. 49).

(B) See *Baxter v. Beningfield*, 9 N.L.R. 111. The statute of 21 Jac. 1 c. 16, though it barred the remedy, did not extinguish the debt, which might be revived by the debtor's promise to pay, or by an acknowledgment without writing that the debt was unpaid (see *Hurst v. Parker*, 1 B. & Ad. 92; *Pittam v. Foster*, 1 B. & C. 248). But as to simple contracts, 9 Geo. 4, c. 14, and as to specialty contracts, 3 & 4 Will. 4, c. 42 make it necessary to the validity of the promise or acknowledgment that it be in writing signed by the party chargeable. But these Acts do not lessen the effect of a part payment of the debt which, generally speaking, amounts to an acknowledgment on the part of the person making the payment that a greater debt is then due (see *Tippett v. Heane*, 1 C.M. & R. 252; *Mills v. Fowkes*, 5 Bing. N.C. 455; *Waugh v. Cope*, 6 M. & W. 829).

Some of the leading decisions on 9 Geo. 4, c. 14, are given below:—

Lost Writing.—Where a written promise to pay a debt barred by the statute of limitations has been lost, parol evidence of the contents of the writing is admissible (*Haydon v. Williams*, 7 Bing. 163. See *Smith v. Thorne*, 18 Q.B. 134; 21 L.J., Q.B. 199; *Hughes v. Paramore*, 24 L.J. Ch. 681).

General principle governing Acknowledgments, &c.—To take a case out of the Statute, there must either be an express promise or an acknowledgment or admission of the debt, in terms so distinct and unqualified as that a promise to pay may reasonably be inferred therefrom (see *Tanner v. Smart*, 6 B. & C. 603; *Fordham v. Wallis*, 10, Hare, 217).

Examples of Acknowledgments held sufficient.—"I do wish I could comply with your request, for really I am and have been very wretched indeed on account of your account not being paid. I hear there is a prospect of an abundant harvest, which surely must turn into a goodly sum, and very considerably reduce your account; at all events, if it does not, the concern must be broken up to meet it at last. . . . My hope is that out of the present harvest you will be paid." (*Bird v. Gammon*, 3 Bing. N.C. 883). "In reply to your statement of account received, I am ashamed the account has stood so long. I must beg to trespass on your kindness a short time longer, till a turn in trade takes place, as for some time things have been very flat" (*Cornforth v. Smithard*, 5 H. & N. 13; 29 L. J., Ex. 228), referred to in the judgment of Connor, J. in *Otto v. Grove*, N.L.R. 1871, p. 32. "I will try to pay you a little at a time if you will let me. I am sure that I am anxious to get out of your debt. I will endeavour to send you a little next week" (*Lee v. Wilmot*, L.R., 1 Ex. 364), referred to in judgment of Connor, J., in *Otto v. Grove*, ubi supra.

8. No endorsement or memorandum of any payment written or made upon any promissory note, bill of exchange, or other liquid document, by or on behalf of the party to whom such payment shall be made, shall be deemed to be sufficient proof of such payment, so as to take the case out of the operation of this Law.

Law 14, 1861.
Endorsement or memorandum of payment written upon liquid document.

"The old account between us, which has been standing over so long, has not escaped our memory, and as soon as we can get our affairs arranged we will see you are paid; perhaps, in the meantime, you will let your clerk send me an account of how it stands" (*Chasmore v. Turner*, L.R., 10 Q.B. 500).

For further examples of acknowledgments or promises which have been held sufficient, see *Dabbs v. Humphries*, 10 Bing. 446; *Smith v. Poole*, 12 Sim. 17; *Waller v. Lacy*, 1 M. & G. 54; *Gardner v. McMahon*, 3 Q.B. 561; *Cheslyn v. Dalby*, 4 Y. & Col. 238 (where the promise was by recital in a deed); *Sidwell v. Mason*, 26 L.J., Ex. 407; *Bourdin v. Greenwood*, L.R., 13 Eq. 281; *Curwen v. Milburn*, 42 Ch. D. 424.

It appears from the above decisions that a general promise in writing, not specifying the amount, but which can be made certain as to the amount by extrinsic evidence, is sufficient to take the case out of the operation of the Statute.

Examples of Acknowledgments held insufficient.—An acknowledgment, accompanied with what is a contradiction of any promise to pay, or which repels the inference of such promise, is not sufficient (*Linsell v. Bonsor*, 2 Bing. N.C. 241; *A'Court v. Cross*, 3 Bing. 329).

The following letter, written by the defendant to the plaintiff's clerk, in answer to an application for a debt contracted above six years before the action was brought, was held not sufficient: "I will not fail to meet Mr. Hart (the plaintiff) on fair terms, and have now a hope that before perhaps a week from this date I shall have it in my power to pay him, at all events a portion of the debt, when we shall settle about the liquidation of the balance" (*Hart v. Prendergast*, 14 M. & W. 745).

So also the following letter, written by the debtor in answer to an application for payment: "I do not wish to avail myself of the Statute of Limitations to refuse payment of the debt. I have not the means of payment, and must crave a continuance of your indulgence. My situation as a clerk does not afford me the means of laying by a shilling, but in time I may reap the benefit of my services in an augmentation of salary that may enable me to propose some satisfactory arrangement. I am much obliged to you for your forbearance" (*Rackham v. Marriott*, 1 H. & N. 234; 26 L.J., Ex. 324; 2 H. & N. 196; 26 L.J., Ex. 315).

For further examples of documents which have been held insufficient to take cases out of the Statute of Limitations, see *Whipping v. Hillary*, 5 B. & Ad. 399 (referred to in judgment of Chief Justice in *Otto v. Grove*, N.L.R. 1871); *Routledge v. Ramsay*, 8 Ad. & E. 221; *Smith v. Thorne*, 18 Q.B. 134; *Francis v. Hawkeley*, 28 L.J., Q.B. 370; *Green v. Humphreys*, 26 Ch. D. 474, C.A.; *Bethell v. Bethell*, 34 Ch. D. 561.

Letter without prejudice.—Mellish, L.J. in *In re River Steamer Co., Mitchell's claim* (L.R., 6 Ch. 822), expressed a strong opinion that a letter stated to be "without prejudice" could not be relied upon to take a case out of the Statute of Limitations.

Signature.—The Act 19 & 20 Vic. c. 97, § 13, makes an acknowledgment by an agent, duly authorised to make it, equivalent to an acknowledgment by the debtor himself. The acknowledgment must be given before the action is brought (*Bateman v. Pinder*, 3 Q.B. 574). It has been questioned whether the debtor's written acknowledgment to a third person is sufficient (*Grenfell v. Girdlestone*, 2 Y. & Col., Ex. 662). A signature by a party in the body of a writing is sufficient (*Holmes v. Mackrell*, 3 C.B., N.S. 789).

Part Payment.—Verbal evidence of an acknowledgment of payment of part of principal or interest is sufficient to take a case out of the Statute (*Cleave v. Jones*, 20 L.J., Ex. 238). The payment must be made under circumstances which warrant the inference that defendant promises to pay the residue; therefore, where a party, on being applied to for interest, paid a sovereign, and said he owed the money, but would not pay it; it was held to be a question for a jury whether he intended to refuse payment, or merely spoke in jest (*Wainman v. Kynman*, 1 Ex. 118). See also *Morgan v. Rowlands*, L.R., 7 Q.B. 493; 41 L.J., Q.B. 187.

Qualified payment.—Words used at the time of making a payment qualify it, but it is for the jury to judge of the truth of a statement accompanying the admission of a previous payment (*Baldon v. Walton*, 1 Ex. 617).

Bills and Notes.—The giving of a bill of exchange in payment on account of a debt, under circumstances which raise an implication of a promise to pay the balance, is a payment within the 9 Geo. 4, c. 14, s. 1, and takes the debt out of the Statute, notwithstanding the bill is

Law 14, 1861.

Item arising beyond the period of prescription in this Law, not claimable by reason only of some other claim having first arisen.

In the absence of a debtor from the Colony, period to be calculated from the date of his return.

Two or more joint debtors.

9. If any suit or action shall be brought for the amount or balance of an account containing any number of items or matters of claim more than one, of such a nature as are in this Law mentioned, no claim in respect of an item or matter which arose at a date beyond the period of prescription by this Law established, shall be claimable by reason only of some other matter of claim, comprised in the same account, having first arisen within the said period.

10. If at any time when any such cause of action as is in this (A) mentioned first accrued, the person against whom such cause of action had arisen shall be absent (B) from the Colony, then the person to whom such cause of action so accrued shall have the same time after the return of such other person to this Colony, within which to bring his action, as by this Law he would have had after such cause of action first accrued, in case the person against whom the same had arisen had then been within this Colony: Provided also, that in case any such cause of action as aforesaid shall have already arisen against any person who shall be absent from this Colony at the time of the taking effect of this Law, such cause of action shall, for the purpose of this section, be deemed to have first accrued upon the day on which such person shall return to this Colony.

11. Where any such cause of action, as in this Law mentioned, lies against two or more joint debtors, the person to whom such cause of action shall have accrued shall not be entitled to any time beyond

afterwards dishonoured (*Turney v. Dodwell*, 23 L.J., Q.B. 137).

As to the effect of renewal of promissory notes, see *Foster v. Dawber*, 20 L.J., Ex. 385.

Payment in Kind.—Anything received upon an agreement, in reduction of a debt, appears to be a payment within the section sufficient to take the debt out of the Statute of Limitations (*Hooper v. Stephens*, 4 Ad. & E. 71). But in order to make a delivery of goods operative in taking a case out of the Statute, there must be some evidence of an agreement that such delivery shall be deemed equivalent to payment (*Cottam v. Partridge*, 4 Scott N.R. 819). Otherwise the part payment must be in cash or what is equivalent to it (*Williams v. Griffiths*, 2 C. M. & R. 45); but see *Maber v. Maber*, L.R., 2 Ex. 153.

And see further as to what is sufficient evidence of part payment, *Bevan v. Gething*, 3 Q.B. 740; *Walker v. Butler*, 25 L.J., Q.B. 377.

Going through Account and Striking Balance.—Going through an account with items on both sides, and striking a balance, converts the set-off into payments (*Ashby v. James*, 11 M. & W. 542, recognised in *Worthington v. Grimsditch*, 7 Q.B. 484; *Clark v. Alexander*, 8 Scott N.R. 165). But the going through an account where there are items on one side only, does not alter the situation of the parties at all, or constitute any new consideration (*Ib.*; *Smith v. Forty*, 4 C. & P. 126; *Jones v. Ryder*, 4 M. & W. 32; *Mills v. Fowkes*, 5 Bing. N.C. 455).

Payment to Agent.—A payment to an agent on account of the creditor, in part

liquidation of a debt, has the same effect as a payment to himself (*Hart v. Stephens*, 6 Q.B., 937); but payment to a person other than the creditor or his agent is no payment at all in the proper sense of the word, being no discharge of liability (*Stamford Union Banking Co. v. Smith* [1892], 1 Q.B. 765, C.A., distinguishing *Clark v. Hooper*, 10 Bing. 480).

Payment of Interest.—See *Hart v. Stephens*, supra; *Bamfield v. Tupper*, 7 Ex. 27; *Collyer v. Willock*, 4 Bing. 313; *Evans v. Davies*, 4 Ad. & E. 840.

Appropriation of Payments.—Where several debts are due, and a payment is made, the debtor can appropriate the payment to whichever of the debts he chooses at the time when he makes it; if he does not do so the creditor has the right of appropriation at any time afterwards, and may appropriate the payment to a debt barred by the Statute of Limitations, but in that case such payment is not a payment on account so as to take the remainder of the debt out of the Statute. If neither party makes any appropriation the payment is appropriated by law to the earlier debt, and to interest before principal. See *Clayton's case*, 1 Mer. 572; *Tudor's L.C.* on Mer. & Mar. Law, p. 1; *Mills v. Fowkes*, 5 Bing. N.C. 455; *Walker v. Butler*, 29 L.J., Q.B. 377; note to *Whitcombe v. Whiting*, 1 Smith L.C.

(A) The word "Law" appears to have been omitted here.

(B) See as to meaning of word "absent," and as to what constitutes a "return" to the Colony, *Otto v. Grové*, N.L.R. 1871, p. 32, per Connor, J.

the time fixed by this Law, within which to commence any action or suit for enforcing such cause of action against any one or more of such joint debtors who shall not be absent from this Colony at the time when such cause of action first accrued, by reason only that some one or more of such joint debtors was, or were, at the time such cause of action so accrued, absent from this Colony: Provided also, that the plaintiff, in any such last-mentioned action, shall not be barred from maintaining an action against the joint debtor or joint debtors who was or were absent from the Colony at the time the cause of such action accrued, after his or their return to this Colony, by reason only that judgment for such cause of action was already recovered against one or more of such joint debtors, who was not or were not absent from this Colony at the time in that behalf aforesaid. Law 14, 1861.

12. Nothing in this Law contained shall be construed so as to deprive any court in this Colony of any power which it may now by law possess to take into consideration, as matter of evidence in any suit or action pending in such court, any lapse of time shorter than the period of prescription established by this Law, and to give such weight to such evidence as it may, under the particular circumstances of the case, appear to be entitled to. Present power of Courts not interfered with under particular circumstances.

13. This Law may be cited for all purposes, as "The Prescription Amendment Law, 1861." Short title.

14. This Law shall commence and take effect from and after the promulgation thereof in the "GOVERNMENT GAZETTE" (A). Commencement

Law No. 10, 1867 (B).

"For the protection of Her Majesty's Naval and Victualling Stores within the Colony of Natal."

[4th October, 1867.]

17. All actions and prosecutions to be commenced against any Magistrate, officer, or other person, for any thing done in pursuance of this Law, shall be commenced within six months after the fact committed, and not otherwise; and notice in writing of such action, and of the cause thereof, shall be given to the defendant one month at least before the commencement of the action, and in any such action the defendant may plead the general issue, and give this Law and the special matter in evidence, at any trial to be had thereupon; and no plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought, by or on behalf of the defendant; and if a judgment or sentence be given for the defendant, or if the plaintiff shall become nonsuited, or discontinue such action after issue joined, or if, upon demurrer or otherwise, judgment shall be given against the plaintiff, the defendant shall recover his full costs, as between attorney and client, and have the like remedy for the same, as any defendant has by law in other cases, and though a verdict or other judgment shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless the judge before whom the trial shall be, shall certify his approbation of the action. Limitation of action against Magistrates, &c., for matters done in pursuance of this Law.

(A) August 27, 1861.

(B) See this Law in full, ante, tit. "CRIMINAL LAW," p. 22.

PRESCRIPTION.

Law No. 1, 1868 (A).

“ To make provision for the safe custody of persons dangerously insane, and for the care and custody of persons of unsound mind.”

[16th September, 1868.]

Limitation of action against persons carrying this Law into effect.

13. No action shall lie against any person whatever, on account of any act, matter, or thing done or commanded by him, in carrying the provisions of this Law into effect, unless such action be commenced within three months after the cause of action or complaint shall have arisen; and if any person shall be sued on account of any act, matter, or thing, which he shall have so done, or commanded to be done, he may plead the general issue, and give the special matter in evidence.

Law No. 15, 1871 (B).

“ Law to facilitate the obtaining of Labour.”

[28th November, 1871.]

Limitation of action for damages on contract.

24. Any action for damages instituted by or on behalf of either of the said contracting parties, in respect of any breach of such contract, shall be instituted and tried in the Court of the Resident Magistrate having jurisdiction, but such action shall not be sustained unless it is commenced within three calendar months from the date when the cause of action arose.

Law No. 7, 1877 (C).

“ To regulate the importation, landing, storage, and carrying of dynamite and other explosive substances.”

[17th August, 1877.]

Limitation of action against officer for any act or proceeding under this Law.

18. No civil action shall be maintainable against any Magistrate or other officer for any act or proceeding under this Law, unless the summons shall be issued by or at the suit of the party complaining against such Magistrate or other officer within three months from the date of the act or proceeding complained of.

Law No. 25, 1891 (D).

“ To amend and consolidate the Laws relating to the introduction of Indian Immigrants into the Colony of Natal, and to the regulation and government of such Indian Immigrants.”

[3rd September, 1891.]

Monies due to Indian Immigration Trust Board under provisions of this Law to be sued for within six months from due date.

20. All moneys due to the Indian Immigration Trust Board, under the provisions of this Law in respect of such annual payments, interest

(A) See this Law in full, tit. “LUNATICS.”

(B) See this Law in full, tit. “MASTER AND SERVANT.”

(C) See this Law in full, tit. “EXPLOSIVES.”

(D) See this Law in full, tit. “IMMIGRATION (INDIAN),” and the notes to this sec. thereunder.

and medical fees shall be and are hereby declared to be a first charge on the property or estate of the person by whom the same shall be payable, and all such moneys shall be a first charge and shall take priority of all charges and encumbrances whatsoever and whensoever made upon and over the property, movable and immovable, of such person; and provided further that such claims so due shall have been demanded and legal proceedings shall have been taken to recover the same within six months from the time that the same fell due, or in the event of the insolvency of the debtor, that the same shall have been duly proved in the estate within a like period or within such period as other debts in the estate can be proved. Law 25, 1891.

Act No. 1, 1894 (A).

“To Provide for the Consolidation and Regulation of the Police Forces of the Colony.”

[26th June, 1894.]

33. For the protection of persons acting in the execution of this Act, all actions and prosecutions to be commenced against any person for anything done in pursuance of this Act, shall be commenced within four calendar months after the act committed, and not otherwise, and notice in writing of such action, and of the cause thereof, shall be given to the defendant one calendar month at least before the commencement of the action, and no plaintiff shall recover in any such action if tender or sufficient amends have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought by or on behalf of the defendant, together with the costs incurred up to that time, and if a verdict shall be given for the defendant or the plaintiff be non-suited or discontinued any such action after issue joined, or if upon exception or otherwise judgment shall be given against the plaintiff, the defendant shall recover his full costs as between attorney and client. And though a verdict shall be given for the plaintiff in any such action, such plaintiff shall not have costs against defendant unless the judge before whom the trial shall be shall certify his approbation of the action and of the verdict obtained thereon.

Prescription of proceedings against persons acting in execution of this Act.

Costs.

Act No. 22, 1894 (B).

“To amend ‘The Municipal Corporations Law, 1872,’ and to give extended Powers to Municipal Corporations.”

[16th July, 1894.]

4. Where by this Act any Town Council shall take over any by-streets, otherwise than with the consent of the owner or owners thereof, compensation shall be made to the owner or owners for any interest he or they may have in the land so taken, and for damage arising from the exercise of the power vested in the Town Council by this Act. The amount of compensation in case of dispute when the sum claimed is One Hundred Pounds or under shall be decided by the Resident Magistrate of the said Borough, and when over One Hundred Pounds by the Supreme Court, or by a Jury or by arbitration in the usual manner, in the option of the person claiming the compensation.

Claims for compensation for appropriation of land.

(A) See this Act in full, tit. “POLICE,” and the note to this section thereunder.

(B) See this Act in full, tit. “MUNICIPAL CORPORATIONS.”

Act 22, 1894.
Prescription of
action.

5. No claim for compensation by any such owner or owners shall be sustained after the expiry of six months' notice given to any owner or owners of such by-street or by-streets of the intention of the Town Council so to take over, who, during such period, has or have failed to make any claim for compensation: Provided always, that the said Town Council may at any time during or after such notice rescind their resolution to take over any such by-street or by-streets.

Act 'No. 23, 1895 (A).

"To repeal Laws Nos. 19, 1888, and 19, 1889, and to provide for the better Organization, Regulation, and Discipline of the Volunteer Force of the Colony."

[8th August, 1895.]

Prescription of
suits and
prosecutions.

46. No action or prosecution against a member of the Volunteer Force for anything done, or purported to have been done, in pursuance of this Act, shall be commenced after the end of two months from the doing of such act.

Act No. 22, 1896 (B).

"To amend and consolidate the Laws regulating Magistrates' Courts."

[30th June, 1896.]

Judgments,
orders, writs of
execution, &c.,
to be of force for
six years from
date of original
judgment in the
action.

62. All judgments, orders, and writs of execution, or other process for compelling payment of any judgment shall be of force and virtue, and may be acted upon as occasion may require, within six years from the date of the original judgment in the action. Should the plaintiff have died within such period of six years, his executors or other legal representatives shall have power to take up the proceedings and act under the judgment obtained by the plaintiff in all respects as he could have done if living, and should the defendant have died within such period of six years, his estate then in the hands of his legal representatives, in their capacity as such, shall be deemed to be liable under any judgment obtained against the defendant: Provided that no execution shall be taken out under any such judgment or order after the lapse of six years from the date thereof, without leave first had and obtained from the Court by which the same was made, which shall have power to grant revival of judgment.

Act No. 80, 1897 (C).

"For the better prevention of Lung-sickness among the Cattle of the Colony."

[29th May, 1897.]

Limitation of
action against
person acting in
pursuance of
this Act.

44. An action or proceeding shall not lie against any person acting or intending to act under the authority, or in the execution or in

(A) See this Act in full, tit. "VOLUNTEERS."
(B) See this Act in full, tit. "COURTS

(MAGISTRATES')."

(C) See this Act in full, tit. "ANIMALS (DISEASES)."

pursuance of this Act for any alleged irregularity or trespass or other act or thing done or omitted by him under this Act, unless notice in writing (specifying the cause of the action or proceeding, and the name and residence of the intending plaintiff or prosecutor, and of his attorney or agent in the matter) is given by the intending plaintiff or prosecutor to the intended defendant one month at least before the commencement of the action or proceeding, nor unless the action or proceeding is commenced within three months next after the act or thing complained of is done or omitted, or in case of a continuation of damage, within three months next after the doing of such damage has ceased. Act 30, 1897.

Act No. 38, 1899/(A).

“To make better provision for the administration of Intestate Estates and for the registration of Deaths.”

[11th September, 1899.]

33. The law of prescription at present applicable to suits or actions for money claimed upon or by virtue of any policy of assurance shall apply to suits or actions for money claimed against any surety upon or by virtue of any surety bond given in terms of this Act. Prescription of action on surety bond given in terms of this Act.

PRIMARY SCHOOLS.

[See “EDUCATION.”]

PRINCIPAL AND SURETY.

[See “BONDS (RENUNCIATIONS)” ; “CONTRACTS” ; “CONTRIBUTION AND INDEMNITY.”]

PRISONS.

[See “GAOLS.”]

(A) See this Act in full, tit. “INTESTATE ESTATES.”

PROBATE, ADMINISTRATION, &c.

[See "INTESTATE ESTATES"; "WILLS."]

Law No. 5, 1868.

"To provide for the Registration and Probate of Wills in the Colony of Natal."

[16th September, 1868.]

WHEREAS it has been deemed expedient to make provision for the registration and probate of wills in this Colony:

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

1. From and after the first day of January, 1869, it shall be necessary, before any will (A) or codicil can be acted upon in this Colony, that the same be registered in the office of the Registrar of Deeds of Natal, after having been duly proved in manner hereinafter provided.

After 1st Jan., 1869, wills not to be acted upon until registered.

2. In order that any will or codicil shall be capable of registration under this Law the due and proper execution thereof and the death of the testator shall (save as hereinafter otherwise specially provided) be proved or shown before the Registrar of Deeds of the Colony, or before any Resident Magistrate of any county or division in the Colony in which any part of the property whereto such will or codicil shall relate may at the death of the testator have been; and when such proof for registry shall be before any Magistrate, such Magistrate shall transmit by post to the Registrar of Deeds a certificate of such proof in the form provided in Schedule A to this Law, or as near thereto as may be, together with the original will to which such proof relates: Provided, however, that the Magistrate before forwarding such original will to the Registrar of Deeds shall cause a copy thereof to be taken, such copy, after being by such Magistrate carefully compared with the original will and certified, to be kept among the records of his office.

Proof of execution of will and death of testator, how to be made.

When before Magistrate, original will and copy of proof shall be transmitted to Registrar of Deeds.

3. Such proof of execution shall be by the witnesses to such will, or either of them: Provided always, that if such witnesses shall appear to be dead or of unsound mind, or absent from the Colony (B), or otherwise incapacitated, their evidence may be dispensed with: And, provided further, that in the case of any will or codicil purporting to have been duly executed before, and attested by, any notary public, the signature and seal of such notary public shall, unless proof to the contrary be adduced, be deemed sufficient proof of the due execution of such will or codicil: Provided also, that any testator having, together with his witnesses, executed and attested his will in the presence of a Resident Magistrate or Justice of the Peace, may require such Resident Magistrate or Justice of the Peace to inscribe a certificate on said will, that the said will was duly executed in his presence, and such certificate shall be deemed sufficient proof of the due execution of said will, for the purpose of registration under this Law. [Provided also, that if the will be perfect on the face of it, and there be an attestation clause reciting that the solemnities required by the Law No. 2, 1868,

Proof of execution of will by witnesses;

by signature and seal of Notary;

by certificate of Justice of the Peace, or Resident Magistrate;

(A) See Law 13, 1869, s. 1; also sec. 7 of same Law,

(B) See *Estate of Wools*, 14 N.L.R. 111.

entitled "Law to regulate the execution of Wills and Codicils," have been complied with, then proof of due execution may be made by the executor of the will or other person presenting the same for proof upon oath (A).]

Law 5, 1868.
by oath of executor or person seeking probate.

4. Such proof of the testator's death may be by any person or persons capable of giving evidence in ordinary cases.

Proof of testator's death.

5. Any evidence for proof as hereinbefore and hereinafter referred to may be oral or by written affidavit, and shall be on oath or declaration, or the like, as in ordinary cases, and any person shall be liable to prosecution and punishment for perjury in respect of such evidence, in like manner as if the same had been given in an action duly instituted to establish such proof.

Evidence, how to be given.

6. If any witness to any will shall, when called upon for proof of execution as aforesaid, not remember, or shall doubt or deny the due execution, or if any difficulty or question should arise or any objection be raised by or on behalf of any person interested as to the due execution or validity of any will submitted to the Registrar of Deeds or any Magistrate for proof, such proof for registry shall be given before the Supreme Court of the Colony by any person or persons who can depose thereto, the evidence given by such first-mentioned witness, or such witness himself, being produced before the Supreme Court, or the absence thereof respectively explained, and the Supreme Court shall thereupon decide upon such question or objection, and as to the sufficiency of such proof for registry, or shall make an order declaring the will proved, and stating if and as appearing from the evidence the time and place of the death of the testator; or shall make such other order as to the admission of such will to registry as to such Court shall seem fit (B).

In cases of difficulty, proof of execution shall be given before Supreme Court.

7. Upon the production to and filing with the Registrar of Deeds of a certified copy of order of said Supreme Court as aforesaid, declaring any will proved, the Registrar of Deeds shall register such will in the same manner as if proof had been made before such Registrar of Deeds himself, or any Magistrate as aforesaid.

Court may order will to be registered.

Registrar of Deeds shall register will in accordance with order of Supreme Court.

8. The Registrar of Deeds, when any will shall have been proved before him under this Law, or transmitted to him with an order of Court authorising its registry, as in the last section mentioned, or forwarded to him by any Resident Magistrate with a certificate of probate, as in section two of this Law provided, shall register such will as a proved will, and shall grant to the executor or person proving the same a certified copy of such will, with a certificate of proof and registry in the form provided in Schedule B to this Law, or as near thereto as may be.

Certified copy of will and certificate of probate to be given by Registrar of Deeds.

9. Any certified copy of will issued by the Registrar of Deeds with a certificate of probate and registry, as in the preceding section of this Law referred to, shall, unless and until and save so far as such will or copy shall have been by a competent Court duly declared invalid, be evidence for any purposes of law of such will and of its contents, and of the same having been duly executed by, and being the valid will of, the person purporting to be the testator, and of the fact and period of the death of such testator, and of the fact and date of the registry of such will, and unless and until and save as aforesaid it shall not be competent to any person to contest such evidence in any proceeding wherein such certified copy shall be produced (C).

Certified copy and certificate of probate shall be evidence of the will, its due execution, and the death of the testator, until set aside.

(A) The proviso in brackets is repealed by Law 13, 1869, sec. 3, post, which substitutes another proviso.

N.L.R. 7.

(B) For an instance of an application under this sec. see *Estate of Nipper*, 14 N.L.R. 149. See also *In re Smerdon*, 16

(C) See Law 13, 1869, s. 4, post. See also, as to registration and probate of will in foreign language, Law 26, 1880, post; and as to foreign probates, Act 19, 1894, s. 14, post.

Law 5, 1868.

How witnesses are to be subpoenaed.

10. For the purpose of evidence under this Law persons may be subpoenaed or summoned as witnesses, in like manner and under like conditions, and subject to the like liabilities, as in any proceeding in any Court in this Colony: Provided always, that no such subpoena or summons shall be binding at further limits than it would be if issued by the like authority in ordinary proceedings; but the Registrar of Deeds or any Magistrate may take out a summons from the Supreme or any Circuit Court to require the attendance of any person as a witness for the purposes of this Law.

Who may proceed to have a will proved and registered.

11. Proceedings to have any will proved and registered under this Law shall be by the executor testamentary or dative of the testator, or by any person interested in or under the will, or by any guardian appointed by the will, or where any such person may be a minor or of unsound mind, or absent from the Colony, by any tutor, guardian, curator, or agent of such person, or, if there be no such persons respectively in the Colony capable of acting, by the Master of the Supreme Court: Provided always, that the Master of the Supreme Court may in any case take such proceedings when so ordered by the Supreme Court.

Application to have probate of will stayed or cancelled, how made.

12. Any person interested may apply, on due notice, to the Supreme Court to have the registration or probate of any will in whole or in part stayed or cancelled; and such Court shall make such order thereon as justice shall appear to require.

Exemplified copy of probate of will proved abroad, may be registered in this Colony.

13. When the will or codicil of any deceased person not domiciled in this Colony, but having property therein, shall have been duly proved out of this Colony, and probate thereof granted by a proper court, an exemplified copy (A) of the probate so granted shall, for the purposes of this Law, be deemed a proved will, and may be registered without further proof as a will or codicil under this Law (B).

Any person may lodge with Registrar of Deeds a sealed-up will,

14. From and after the first day of January, 1869, it shall and may be lawful for any person to lodge with the Registrar of Deeds, enclosed under a sealed cover, any will or codicil executed by him, and the Registrar of Deeds shall keep or cause to be kept a register of the names and descriptions of the persons lodging every such deed, and of the date of lodging the same; and every such will or codicil shall be kept under the charge and custody of the said Registrar of Deeds unopened, until the death of the maker thereof, unless re-delivery of the same shall be demanded by the said maker, or in his life-time by his lawful attorney, specially authorised for that purpose by any deed duly executed by the said maker; and when any such will or codicil shall be delivered in manner aforesaid, the maker or his attorney, as the case may be, shall sign a receipt for the same in the margin of the aforesaid register, opposite to the entry of such will or codicil.

to be kept until death of testator or until re-demanded.

Registrar of Deeds may demand charges according to Schedule C.

15. The Registrar of Deeds (C) shall be, and he is hereby authorised and required to charge, and to demand, receive, retain, or recover, in respect of the acts, matters, and things done, or caused to be done by him, or in his office, under and by virtue of the provisions of this Law, all such fees as are specified in the tariff contained in the Schedule C hereunto annexed, and shall account for and pay over the same in like manner, as is by law provided, in respect of any other fees received or retained by him as Registrar of Deeds.

Commencement

16. This Law shall commence and take effect from and after the promulgation thereof in the "GOVERNMENT GAZETTE" (D).

(A) This means a copy from the office granting the probate, and not an extract made by a notary (Re Thomas, N.L.R. 1882, p. 38).

(B) See Act 19, 1894, s. 15, post.

(C) See Law 13, 1869, s. 7, post.

(D) Sept. 22, 1868.

SCHEDULE A.

Law 5, 1868.

Schedules.

Form of Magistrate's Certificate of Probate to be transmitted to Registrar of Deeds.

It is hereby certified that the annexed document was this day
 duly proved before me as the last will and testament of A. B., of
 the _____ who died at _____ on
 _____ day of _____ 18 ____
 Given under my hand this _____ day of _____ 18 ____
 (Signed) C. D.,
 Resident Magistrate for the County (or Division) of _____

SCHEDULE B.

Form of Registrar of Deeds' Certificate to Probate and Registry of Will.

It is hereby certified that the above writing is a true copy in every
 respect of the will and _____ codicils (or as the case may be) of A. B.,
 of _____ who died at _____
 on the _____ day of _____ 18 ____,
 (according to the apparent result of the testimony or to the terms
 of the order or certificate transmitted with the will) and that the
 said will and codicils (or, as the case may be) were registered on
 the _____ day of _____ 18 ____,
 in this office as a proved will.
 Given under my hand this _____ day of _____
 18 ____, at the office of the Registrar of Deeds of Natal, in the City
 of Pietermaritzburg, Natal;
 (Signed) E. F.,
 Registrar of Deeds of the Colony of Natal.

SCHEDULE C.

[Repealed by Law No. 13, 1869, sec. 8, which substitutes therefor Schedule C of that Law.]

Law No. 13, 1869.

"To amend and explain the provisions of Law No. 5, 1868, entitled 'Law to provide for the Registration and Probate of Wills in the Colony of Natal.'"

[22nd September, 1869.]

WHEREAS it is expedient to amend certain portions, and to explain other portions, of the said Law No. 5, 1868 :

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows :—

1. The first section of the said Law No. 5, 1868, shall not be deemed to apply to, or to have applied to, any will or codicil executed before the First day of January, 1869 : but any such will or codicil may, at the desire and expense of any person interested thereunder, and when practicable, be subjected to, and have the benefit of, the other provisions of the said Law and those of this Law.

Application of sec. 1 of Law 5, 1868.

2. Nothing in the said Law No. 5, 1868, contained shall prevent any will or codicil being, before registration thereof, acted upon as far as may be requisite for the purpose of the same being proved or in reference to any proceeding as to its validity in whole or in part, or in respect of the appointment of executors thereof, or for any similar

Wills may be acted upon for certain purposes before registration.

Law 13, 1869. purpose allowed by the authority to whom such will or codicil shall then be produced.

Amendment of sec. 3, Law 5, 1868.
Will containing attestation clause, as in Schedule D, may be proved by deposition of person proceeding therefor.

3. Instead of the last proviso in Section 3 of the said Law No. 5, 1868, the following shall hereafter be substituted, that is to say:—

Provided also that if there be to any will or codicil an attestation clause substantially in the form in Schedule D hereto, and there be nothing on the face of the will or codicil appearing in conflict with the contents of such clause, then the due execution of such will or codicil for the purposes of the said Law No. 5, 1868, may be proved by the person or persons proceeding therefor deposing that he or they believe from not having any knowledge, information, or suspicion to the contrary, that the said will or codicil was executed and attested in manner in the attestation clause thereto stated.

Sec. 9, Law 5, 1868, shall not prejudice the trial of issue, as to validity of will.

4. The provisions of the ninth section of the said Law shall not be construed so as to prejudice the trial of any issue expressly raised on the pleadings or record as to the validity in whole or in part of the will or codicil whereof there shall be the certified copy in the said section alluded to.

Any further certified copy of will shall also be within the provisions of these Laws.

5. Any further certified copy of a will or codicil granted by the Registrar of Deeds under the order of the Supreme Court, or any judge thereof, shall be within the provisions of the said Law, and of this Law in like manner as the certified copy originally granted.

Executor *prima facie* entitled to possession of certified copy.

6. The executor for the time being shall be the person "prima facie" entitled to the possession of the certified copy of the will or codicil in respect whereof he is executor granted under the said Law or this Law.

Interpretation.

7. In the construction of the said Law No. 5, 1868, the term "will" shall be deemed to include a codicil when the latter is not expressed; and in section 15 of the said Law "Resident Magistrates" shall, so far as referred to in schedule C hereto, be deemed within the directions in the said section to the Registrar of Deeds.

Schedule substituted.

8. For Schedule C to the said Law shall be substituted Schedule C hereto.

Commencement and construction.

9. This Law shall be in operation from the promulgation thereof in the "GOVERNMENT GAZETTE" (A), and shall be construed together with the said Law No. 5, 1868, and said Law and this Law may together be cited for all purposes as the "Probate of Wills Law, 1868 and 1869."

Short title.

SCHEDULE C.

Schedules.

Tariff of Fees to be taken by the Registrar of Deeds and the several Resident Magistrates under Law No. 5, 1868, and this Law.

	£	s.	d.
On proof before any Resident Magistrate: for each will or codicil proved	0	2	6
On proof before, or registration with, the Registrar of Deeds of any will or codicil not proved as last above mentioned: for each such will or codicil ...	0	2	6
On any search in the Registrar of Deeds' Office in respect of any will or codicil registered or lodged there under the Law No. 5, 1868: for each will or codicil searched for	0	1	0
On the grant of any certified copy under the said Law: for the first 100 words or fractional part thereof ...	0	2	0

(A) Sept. 28, 1869.

	£	s.	d.	Law 13, 1869, Schedules.
For every further 100 words and last fractional part thereof	0	0	6	
For each certificate to probate or registry	0	5	0	
The foregoing fees shall not supersede any required by the Law No. 18, 1868 (A).				

SCHEDULE D.

Attestation Clause.

Signed [or acknowledged to be signed] by A. B., the testator of this will [or signed with the name of A. B., the testator of this will, in his presence, and by his direction, by C. D.] in the presence of us, then present both together, and affixing our signatures hereto as witnesses to the said will, in the presence of the said testator (B).

E. F.
G. H.

Law No. 26, 1880.

“To amend the Laws relating to the Registration and Probate of Wills in the Colony of Natal.”

[30th December, 1880.]

WHEREAS it is expedient to amend certain portions of the Law No. 5, 1868, entitled Law “To provide for the Registration and Probate of Wills in the Colony of Natal,” and Law No. 13, 1869, entitled Law “To amend and explain the provisions of Law No. 5, 1868, entitled Law ‘To provide for the Registration and Probate of Wills in the Colony of Natal’”:

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

1. When any Will or Codicil written in a foreign language shall be submitted for proof to the Registrar of Deeds under Law 5, 1868, or transmitted to him with an order of Court authorising its registry, as in Section 7 of the said Law mentioned, or forwarded to him by any Resident Magistrate, with a certificate of Probate, as in Section 2 of the said Law provided, there shall accompany the said Will a translation in English of such original Will, and a copy of the said Will, which said translation and copy shall be furnished by the person submitting the said Will for probate, and the Registrar of Deeds shall grant to the Executor, or person proving such Will, a copy of the original Will, together with the translation of the same so deposited as aforesaid.

Will in foreign language submitted to Registrar of Deeds to be accompanied by translation in English and copy of such Will.

Registrar to issue copy and translation to executor or person proving.

2. Such copy and translation of the Will, issued by the Registrar of Deeds with a certificate of probate and registry, as in the preceding section of this Law referred to, shall, subject to the exceptions set forth in Section 9, Law 5, 1868, and Section 4, Law 13, 1869, be evidence for the purposes of law, to the same extent and in the same manner as is provided in Section 9, Law 5, 1868, in the case of a certified copy of Will.

Copy and translation so issued shall be evidence for purposes of Law.

3. Such copy of the original Will, as well as the translation, when transmitted to the Registrar of Deeds, shall have endorsed thereon a certificate of a duly sworn translator, admitted and enrolled as an

Copy and translation of Will to be certified by sworn translator.

(A) This Law has expired. (B) See the notes to sec. 1 of Law 2, 1868, tit. “WILLS.”

Law 26, 1880.	interpreter or translator in the Supreme Court of Natal, of the foreign language in which the said original Will may be written, that the said copy and translation are a true copy and translation of the original Will.
Further copy of Will, or of translation, to be within Laws 5, 1868, and 13, 1869, in like manner as sworn translation originally granted.	4. Any further copy of the original Will, or of the translation of such original Will or Codicil, written in any foreign language granted by the Registrar of Deeds under an Order of the Supreme Court or any Judge thereof shall be within the provisions of the Law 5, 1868, and of the Law 13, 1869, in like manner as the sworn translation originally granted.
Registrar of Deeds may demand fees according to Schedules to Laws 5, 1868, and 13, 1869.	5. The Registrar of Deeds shall be, and is hereby authorised and required to charge and demand, receive, retain, or recover, in respect of the acts, matters or things done or caused to be done by him or in his office under and by virtue of the provisions of this Law, the same fees as are charged for copies of original Wills under the Law 5, 1868, and Law 13, 1869, and specified in the Schedule thereunto annexed, and shall account for and pay over the same in like manner as is by Law provided in respect of any other fees received or retained by him as Registrar of Deeds.
Commencement	6. This Law shall be in operation from the date of the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (A), and shall be construed together with the Law No. 5, 1868, and Law No. 13, 1869, and this Law may be cited for all purposes as the "Probate of Wills Amendment Law, 1881."
Short title.	

Act No. 19, 1894. (a)

To provide for Granting Letters of Administration in Natal, and for the recognition of Letters of Administration granted in other Countries, and to Amend the Law relating to Foreign Probates."

[7th July, 1894.]

WHEREAS it is expedient to make provision for the granting of Letters of Administration and for the recognition in this Colony of Letters of Administration granted in other Countries, and to amend the practice relative to the registration of exemplified copies of Foreign Wills:

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:—

Short title. 1. This Act may be cited as the "Letters of Administration and Foreign Probates Act, 1894."

Interpretation. 2. In this Act "Letters of Administration" shall include every document issued and delivered, or a copy of every such document duly certified, under and by which document any person or body corporate shall be authorised and empowered to act as the personal representative of any deceased person or as executor or administrator testamentary, either of the whole estate of any deceased person which shall be legally situate in the State in which such letters have been granted, or of so much of such estate so situate as consists of immovable, movable, real, or personal property, as the case may be.

"Foreign Letters of Administration" means letters of administration or copies thereof issued or certified by any Court or authority having authority in matters of probate in any Country to which the second part of this Act applies.

(A) Jan. 11, 1881.

“Country” includes a State, Colony, or possession.

Act 19, 1894.

“British Consular Court” means any British Court having jurisdiction under an order in Council made in pursuance of any Imperial Act.

“Foreign Will” means an exemplified copy, registered under Section 13 of Law No. 5, 1868, of a will or codicil proved out of Natal.

PART I.—LETTERS OF ADMINISTRATION GRANTED IN NATAL.

3. The Registrar of Deeds shall upon Probate of any will or codicil, in addition to the certificate of probate and registry required by Law No. 5 of 1868, grant letters of administration to the executor or trustee or other person appointed by such will or codicil to administer the estate of such testator.

Grant of letters of administration.

4. The estates of all persons dying testate, in so far as the same shall be situate within this Colony shall be administered and distributed under and by virtue of letters of administration to be granted by the Registrar of Deeds in the form, as near as may be, contained in the Schedule annexed hereto, marked “A,” to the person or persons appointed by such will or codicil to administer the estate of such deceased testator.

Testate estates to be administered under letters of administration.

5. No tutor or guardian testamentary shall assume or enter upon the administration or management of the estate or property of any minor, except in so far as may be necessary for the preservation and safe custody of the same, until letters of administration shall have been granted to him by the Registrar of Deeds in the form contained in the schedule hereto annexed marked “B.”

Tutors and guardians testamentary not to assume management without letters of administration.

6. The Registrar of Deeds shall, upon probate of any will or codicil, and thereafter from time to time as may be necessary, grant letters of administration as tutors or guardians testamentary in favour of persons who shall have been lawfully nominated and appointed tutors or guardians testamentary to any minor by any such will or codicil, as aforesaid, and whenever it shall come to the knowledge of the said Registrar that the person who has been duly nominated and appointed tutor or guardian testamentary by any such will or codicil, has not applied for letters of administration, the said Registrar shall, by writing, require such person to inform him whether he is willing to act as such tutor or guardian testamentary, and if he shall consent so to do, shall grant him letters of administration accordingly, and if he shall refuse so to do, then the said Registrar shall inform the Master of the Supreme Court accordingly, in order that the necessary steps may be taken for the appointment of a tutor or guardian dative: Provided always that letters of administration as tutor or guardian testamentary shall not be granted to any person who shall at the time be by law incapacitated or disqualified to hold the office of tutor or guardian.

Appointment of tutor or guardian dative.

7. No letters of administration shall be granted under the foregoing sections until all stamps, fees of office, duties, and security, if any, required by law, or by Rule of Court made as hereinafter provided, shall have been paid and given.

Stamps, fees, duties and security.

8. No person shall be entitled or qualified to act as an assumed, substituted, or surrogated executor, trustee, tutor, or guardian, until letters of administration shall have been granted to him by the Registrar of Deeds, who is hereby required to grant the same on production to him of the will, codicil, or other deed, by which such assumption, substitution, or surrogation is authorised, and of the deed by which such executor, trustee, tutor, or guardian has been assumed, and upon any such assumption, substitution, or surrogation, the Registrar of

Assumed, substituted, or surrogated executors, trustees, tutors, &c.

Act 19, 1894. Deeds shall issue, or cause to be issued, letters of administration or confirmation as near as may be in the form provided in Schedules "A" and "B" respectively.

PART II.—FOREIGN LETTERS OF ADMINISTRATION.

Application of Part II, to be declared.

9. Whenever the Governor shall, by Proclamation, declare that the Legislature of any country has made proper provision for the recognition of letters of administration granted in Natal, this part shall apply to such country (A):

This part shall cease to so apply if and when the Governor shall, by Proclamation, declare that such provision no longer exists in any named country.

Foreign letters of administration, how given effect to.

10. Whenever letters of administration granted in any country to which this part applies shall be produced to, and a copy thereof deposited with, the Registrar of Deeds of this Colony, such letters may be signed by the Registrar, and shall thereupon be of like force and effect, and have as full operation in this Colony, with respect to the entire estate of the deceased here situate, as though the said letters had been letters granted by the said Registrar: Provided, however,

1. That the Registrar of Deeds shall not sign any such letters so produced, in case any letters of administration shall have been already granted by him in respect of the estate of any deceased person which shall be situated in this Colony.
2. That before any such letters are signed, the same stamps, fees of office, duties, and security, if any, shall, in the absence of any rule to the contrary, be paid, discharged, and given by the person authorised and empowered to act by the produced letters of administration, which would be required if the said letters had been granted by the Registrar.
3. That in case the Registrar shall refuse to sign any such letters of administration so produced, it shall be lawful for the person thereby authorised and empowered to act, after notice to the Registrar, to make application to the Supreme Court for relief, and thereupon the Supreme Court shall make such order as to justice shall appertain, but no such order shall be inconsistent with the provisions of this Act, or with Rules of Court framed hereunder.

Probate of will not dispensed with.
British Consular Courts.

Nothing in this section shall be held to dispense with the necessity for registration or probate of any will or codicil.

11. Whenever this part shall apply to the United Kingdom, letters of administration granted by a British Consular Court shall be deemed to be granted in a country to which this part applies.

Certified copies to be admitted in evidence.

12. A copy, certified by the Registrar of Deeds, of the copy of any letters of administration deposited with him under the 10th section of this Act, shall be admitted in evidence in all legal proceedings in this Colony, as though such certified copy were the original letters, and a certificate under the hand of the Registrar of Deeds to the effect that he has, in accordance with the said section, signed any letters of administration, authorising and empowering any person to act thereunder, shall be admitted in all legal proceedings in this Colony as "prima facie" proof of the legal right and title of such person to administer so much of the estate of the deceased person named in such certificate as is situate in this Colony. Every proclamation under this Act shall be laid before the Legislative Council and Legislative

Proclamations.

(A) See the Colonial Probates Act, 1892, 55 & 56 Vic. c. 6.

Assembly within fourteen days after the meeting of the next session of Parliament after its publication. Act 19, 1894.

PART III.—FOREIGN PROBATES, AND MISCELLANEOUS PROVISIONS.

13. Whenever a foreign will shall be registered the Registrar of Deeds shall endorse thereon a certificate in the form of Schedule "C" of this Act. Endorsement on foreign wills.

The Registrar of Deeds shall make, certify, and file a copy of such registered will, and shall return the will to the person by whom it was proved. Will to be returned.

14. The filed copy of a foreign will shall, for the purposes of issuing certified copies within the meaning of Section 9 of Law No. 5, 1868, be deemed to be an original will. Certified copies.

15. So far as relates to wills registered under Section 13 of Law No. 5, 1868, that Law and this Act shall form one Act. Construction of Law 5, 1868, with this Act.

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 any specific Act (A) which the Executor or Trustee may himself be required or entitled to do under any such will. Executor or trustee may appoint an agent to do, certain acts.

17. The Supreme Court may from time to time make Rules of Court regulating the procedure and practice, including rules as to fees, costs, and security, to be observed in and about the carrying out of the provisions of this Act, and all such rules shall come into operation from the date of their proclamation in the "NATAL GOVERNMENT GAZETTE." Rules of Court.

SCHEDULE A.

Letters of Administration.

Schedules.

This is to certify that A. B. has been duly appointed Executor Testamentary (and [or] Trustee, as the case may be), and is hereby appointed as such to administer the Estate of C. D., deceased, subject to the terms of his (or her) Will dated _____ and registered in this office on _____ *

Pietermaritzburg, the _____ day of _____ 18____
Registrar of Deeds.

SCHEDULE B.

Letters of Administration Granted to Tutor or Guardian.

This is to certify that A. B. has been duly appointed and is hereby authorised to act as Tutor or Guardian Testamentary of C. D. and E. F.* under the Will of G. H., subject to the terms of his (or her) Will dated _____, and registered in this Office on _____

Pietermaritzburg, the _____ day of _____ 18____
Registrar of Deeds.

* Where any person is appointed Executor, Trustee, or the like, for a limited time only, the said form shall be altered accordingly.

SCHEDULE C.

Certificate of Probate of a Foreign Will.

The foregoing document was this day duly proved before me, under the provisions of Section 13 of Law No. 5, 1868, amended by Act _____

(A) Semble a power of attorney is required for each specific act to be done (In re Testate Estate of H. Nourse, 19 N.L.R. /79). See also In re John Tyrrell, 20 N.L.R., 214.

Act 19, 1894. No. , 1894, as the last will and testament of A. B., of
Schedules. in the country of

Dated at Pietermaritzburg, Natal, the
189

day of

PROMISSORY NOTES.

[See "BILLS OF EXCHANGE."]

PROMISSORY NOTES BY NATIVES.

[See "NATIVE LAW."]

PUBLIC EMPLOYEES.

Act No. 29, 1897^(A)

“To make provision for the old age of certain persons in the public employ.”

[29th May, 1897.]

WHEREAS it is expedient to make provision for the old age of certain persons in the public employ:

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:—

1. There shall be a Fund called “The Superannuation Fund,” to consist of a percentage deduction from the salaries and wages of contributors, and of an equal sum to be paid by the Government in each half year: Provided that the liability of the Government shall not exceed £2,000 per annum, save as is mentioned in Section No. 19.

Establishment of Superannuation Fund.

2. Any person in the public employ not entitled to pension or retiring allowance under any other Law, Act, or scheme, if of sober habits and not afflicted with any disease likely to shorten life, may be admitted as a contributor to the Fund by the Minister in whose Department the control of the Fund may be placed.

Contributions by certain persons.

3. A contributor to the Fund whose age shall not exceed 40 years shall be entitled to the benefit of the Fund by a deduction of a sum equal to 2½ per cent. on his actual salary or wages.

Contributors under 40 years of age.

4. Any person becoming a contributor in terms of Clause 3, who shall have been in the public employ for five years or upwards, and who shall be admitted before the 1st January, 1898, may have not more than five years added to the term of his membership by paying into the Fund, either by a single payment or by instalments approved by the Minister, such sum as will place the Fund in the same position as if he had been admitted at the commencement of the added years.

Contributors in terms of sec. 3, of 5 years' service admitted before Jan. 1st, 1898, may have 5 years added on payment of a certain sum.

5. A person in the Public Service at the date of the promulgation of this Act, and being above the age of forty years, may be admitted to the benefit of the Fund on special terms adapted to his age, the term of his employment, and the circumstances of his case, to be fixed by the Minister.

Admission of public servants over 40 years of age on special terms.

6. Any contributor dismissed from public employment for dishonesty or fraud, or retiring to avoid such dismissal, shall forfeit all his contributions and lose all benefit from the Fund unless the Governor in Council shall otherwise determine.

Effect of dismissal for dishonesty or fraud.

7. Any contributor required to leave the service from reduction of staff, or who may be compelled to retire in consequence of ill-health, before being entitled to superannuation, or who shall be required by the Department to leave the service from any cause other than dishonesty, fraud, or misconduct, shall receive back all his contributions, with simple interest at four per cent. per annum, and shall have no further claim upon the Fund; but any contributing member being dismissed the service for any misconduct other than dishonesty or fraud, shall receive back his contributions only, without interest thereon, and shall have no further claim upon the Fund.

Contributors to receive back contributions with and without interest in certain cases.

Act 29, 1897.

Contributors leaving the service voluntarily.

Contributors dying before they are entitled to superannuation allowance.

Payments to widows and children of deceased contributor where no legally constituted representative.

Payments to contributors of 10 years and upwards who become incapacitated, &c., on production of medical certificate.

Contributions by persons whose salary is stopped owing to ill-health.

Payments on account of contributors dying from effects of accident, &c., occurring whilst in discharge of their duty.

Contributors of 10 years and upwards, on attaining age of 60 years, entitled to superannuation.

8. Any contributor leaving the service of his own accord, shall receive back his own contributions without interest thereon, and shall have no further claim upon the Fund.

9. If a contributor die before he shall have superannuation allowance, his executors shall receive back the whole of the contributions paid by him, with interest; and if a member die after being superannuated, but before the total amount paid to him by way of superannuation has reached the whole amount of the member's own contributions, and those of the Government on his behalf, there shall be paid to his executors or administrators a sum equal to the difference between such contribution and the payments for superannuation that may have been made, but without interest.

10. If there should be no legally constituted representative of a deceased contributing member, the Minister may pay any sum not exceeding Fifty Pounds Sterling, payable in respect of his claim on the Fund, to his widow and children, or either or any of such persons, or to such party or parties as in his discretion, and after full deliberation and enquiry, he may decide to be equitably entitled thereto; and such sum having been once so paid, the Fund shall not be liable to any further claim.

11. Any contributor who has been a member for ten years and upwards, and shall become incapacitated from performing his duties by reason of infirmity of body or mind (which infirmity is not the result of his own misconduct), shall be entitled to be superannuated at any age, provided he produce a medical certificate and gives such other satisfactory proof as the Minister shall require of his having so become incapacitated. The superannuation allowance to be thereupon granted shall be calculated upon the same scale as if he had attained the retiring age: Provided always, that if while under sixty he be earning, or should recover so far as to be able to earn an income, partially or wholly, adequate to maintain his former position in life, the Minister shall have power to reduce or revoke his allowance accordingly while he is under sixty, and the Minister shall accordingly decide from time to time what (if any) allowance he shall receive while under sixty.

12. Any contributor, the payment of whose salary shall be stopped in consequence of prolonged ill-health (not being the result of his own misconduct), shall be entitled so long as his name remains upon the books of his Department (but not in any case for a longer period than twelve months), to continue his membership by resuming payment on the termination of his illness of the same amount of monthly subscription as was paid by him at the time of his salary being discontinued.

13. If any contributor should die from the effects of accident or misadventure occurring whilst he is in the discharge of his duty in the service of his Department, before he shall have superannuation allowance, his executors shall receive both the whole of the contributions paid by him (together with the amount paid by the Government in addition thereto) and the interest accruing thereupon: Provided that payment under this Section shall not be treated as compensation within the meaning of Section 5 of the Employers' Liability Act of 1896.

14. Any contributor who shall have been a member for ten years or upwards shall, on attaining the age of sixty years, or at any time afterwards, be entitled to discontinue his contributions, and be superannuated, and shall thereupon for the rest of his life be entitled to receive from the Fund an allowance or annuity according to the scale hereinafter provided, computed upon the average of the salary upon which he has contributed.

SCALE OF RETIREMENT.

Act 29, 1897.

Years of Contribution completed.	Yearly amount of Superannuation in percentage of Average Salary.	Years of Contribution completed.	Yearly amount of Superannuation in percentage of Average Salary.	Years of Contribution completed.	Yearly amount of Superannuation in percentage of Average Salary.
10	£ 25	22	£ 39	34	£ 53
11	26	23	40	35	54
12	27	24	42	36	55
13	28	25	43	37	56
14	29	26	44	38	58
15	30	27	45	39	60
16	32	28	46	40	61
17	34	29	47	41	62
18	35	30	48	42	63
19	36	31	50	43	64
20	37	32	51	44	65
21	38	33	52	45	67
				and upwards	

15. The age of sixty years mentioned in Section 14 may be reduced by the Minister by not more than 5 years, whenever the circumstances of the case may warrant special consideration.

Age of 60 years may be reduced in certain cases.

16. A Superannuation Allowance, or other sum, payable under this Act, shall not be capable of being mortgaged or otherwise charged, and shall not be liable to be attached or taken in execution, either in Insolvency or otherwise.

Superannuation allowance cannot be mortgaged or attached.

17. All Superannuation Allowances shall be paid on such dates and in such manner as may be arranged by the Minister.

Date and manner of payments.

18. An Annual Account, framed under the instructions of the Minister, shall be audited by the Audit Department.

Audit of accounts.

19. The Minister may agree with the respective Committees of the Fund created under the Police Act of 1894, and of the Railway Superannuation Fund created under Rules approved by the Governor on the 26th August, 1895, for the incorporation of their respective Funds with the Fund created by this Act: Provided that no such incorporation shall prejudice any contributor to the Police Fund or Railway Fund. [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.]

Incorporation of Police and Railway Superannuation Funds.

20. The Government contributions to the Railway Superannuation Fund under the eighth of the Rules approved on the 26th August, 1895, shall cease as regards new members admitted to that Fund after the 30th June, 1897.

Cessation of Government contributions to Railway Superannuation Fund, as regards new members.

21. The moneys of the Fund shall be kept in a separate banking account, and may be invested on securities approved by the Minister.

Custody of moneys.

22. The Governor in Council may make regulations for the better carrying out of the provisions of this Act.

Regulations.

PUBLIC HEALTH.

Law No. 3, 1858 (A).

"To amend the Law relating to Quarantine."

[10th April, 1858.]

WHEREAS it is expedient to amend the laws relating to the performance of quarantine, by vessels anchoring off, and arriving in, and near, the ports of this Colony:

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

Repeal.

1. The Ordinance No. 4, dated the 31st day of August, 1854, entitled "an Ordinance to establish and regulate Quarantine," shall be, and is hereby, repealed.

Interpretation.

2. In the interpretation of this Act, whenever the terms or expressions following shall occur, the same shall be construed respectively, in manner hereinafter directed, that is to say, the term "ship" and the term "vessel" shall be construed to mean ship, vessel, or steamer, generally; the term "commander" or "master" of any vessel, shall be construed to mean the person having or taking the charge or command of such vessel; and whenever mention is made of any "public officer," the officer mentioned shall be deemed to be such officer, for the time being, or the officer acting as such.

All vessels liable to provisions of this Law.

3. All vessels, as well Her Majesty's ships of war, and the ships of war of other nations, anchoring off, or arriving in, any of the ports of this Colony (B), shall be liable to the regulations contained in this Law, concerning quarantine, and the prevention of infection.

Penalty for communicating with shore before receiving pratique.

4. Any commander or master of a vessel, anchoring off, or arriving in, any port or place in this Colony, and any person on board thereof, communicating, or attempting to communicate, with the shore, or with any other vessel, or with any boat from any vessel, or from the shore, or allowing any person on board, so to do otherwise than by signal, before such vessel has received pratique from the Port Captain, or health officer, or other person, duly authorised by the Port Captain, in the manner hereinafter mentioned, and before the health flag has been hoisted in token thereof, shall forfeit, for every such offence, the sum of £20; and if it be proved that any malignant disease, of a contagious or infectious nature, existed on board said vessel, when such communication, or attempt at communication, took place, then every commander, master, or other person, so offending, shall be liable to a penalty of £100.

Penalty for communicating with vessel which has not received pratique.

5. Any person from the shore, or from any vessel in, or anchored off, any of the ports in this Colony, or from any fishing, or other boat, except the officers authorised under this Law, boarding, or going alongside, any vessel arriving in, or anchoring off, any of said ports, or receiving into any boat any parcel or package, or other thing whatever, from on board such vessel, previously to such vessel having received pratique, in the mode hereinafter described, shall forfeit, for every such offence, any sum not exceeding twenty pounds sterling, and, in default of payment, shall be imprisoned for six months.

Coasting vessels excepted.

6. The foregoing provisions shall not extend to any vessel arriving coastwise from any other port or place of this Colony, and not having

(A) See Law 4, 1882, and Act 2, 1897, s. 6, post. (B) See Law 10, 1859, s. 2, post.

had intercourse, by means of boats or otherwise, during the voyage, with any other vessel than a vessel on a coasting voyage. **Law 3, 1858.**

7. If at any time it should be necessary for the Port Captain to board any vessel, anchoring off, or entering in, a port of this Colony, or allow his boat's crew to board the same, or otherwise personally to communicate with such vessel, with the view of rendering assistance, in case of danger, previously to such vessel having received pratique, every such person or persons, who may have so communicated with the said vessel, shall remain in quarantine, either on board such vessel, or in their own boat, until such time as the vessel, with which they have so communicated, may have obtained pratique, on pain of rendering themselves liable to the pains and penalties hereinafter imposed on persons unlawfully communicating with the shore, before pratique has been given; and if the vessel with which the Port Captain, or boat's crew, having communicated, as aforesaid, be afterwards placed under quarantine, by a competent authority, the said Port Captain, or boat's crew, shall remain in quarantine also, and become subject to all the provisions of this Law relating thereunto.

Port Captain or boat's crew, if communicating with vessel without pratique, shall remain in quarantine until pratique granted.

8. On the anchoring of any vessel off, or the arrival of any vessel in, any port of this Colony, the commander or master thereof shall, upon being furnished by the Port Captain, or health officer, or other person duly authorised, with a printed declaration of health, according to the form in schedule A, hereunto annexed, fill up and sign the same, if he feels himself justified from the perfect state of health of every person on board so to do, and shall return the said declaration, so filled up and signed, to the officer as aforesaid, whereupon such vessel may be granted pratique, and the commander or master shall then hoist the Union Jack, or the flag of the nation to which the vessel belongs, to the main topgallant mast or main topmast head, as the health flag, in token of such pratique having been duly granted. But no such pratique shall be deemed or taken to be granted, until duly signified by such health flag having been so hoisted.

Masters of vessels to sign health certificate, and when pratique granted, to hoist health flag.

9. If, after the commander or master, of any vessel, anchoring or arriving as aforesaid, has signed the declaration of health as aforesaid, it should appear that any malignant disease, of a contagious or infectious nature, has shown itself on board of such vessel during the voyage to this Colony, with the knowledge of such commander, or master, or if it should appear that the statement made in the declaration or in answers to the questions therein inserted, in any way wilfully misrepresented the facts of the case, such commander or master shall forfeit the sum of fifty pounds; and if it be proved that any malignant disease, of a contagious or infectious nature, actually prevailed on board said vessel at the time that the declaration was signed, and with the knowledge of the master or commander, the commander or master so offending, shall forfeit the sum of one hundred pounds sterling.

Penalty for false declaration.

10. If any commander or master of a vessel, anchoring off or arriving in any port of this Colony, should, from the ill state of health of any of the persons on board of his vessel, or from any other circumstances, not deem himself warranted to sign the aforesaid declaration of health, or if such vessel have troops or convicts on board, or have touched at any of the ports or places on the coast of Africa, or adjacent isles, not within the limits of this Colony, the health officer, or other person duly authorised to act for him, shall, in every such case, make every necessary enquiry into the state of health of the officers, passengers, crew, troops, and convicts, and if there should be any sick persons on board, into the nature and character of their complaints, and shall, after such enquiry, either detain the said vessel in quarantine, or give her pratique, as to him may appear fitting: Provided, that when there may be any reasonable cause of doubt or

How when master of vessel is unable to sign declaration of health.

Law 3, 1858.

Duties of health officer in case of vessel being placed in quarantine.

suspicion, he shall not grant pratique, but shall detain the vessel in quarantine, and report thereon to the Collector of Customs, in order that further medical advice may be obtained.

11. If the health officer should deem it necessary to place the vessel in quarantine, he shall notify the same to the master or commander thereof, and give him a copy of this Law, and order him to hoist a yellow flag at the fore topmast, or fore topgallantmast head, and shall forthwith report the same to the Collector of Customs, as aforesaid, in order that the necessary measures may be taken for cutting off all communication with such vessel, for such time as may be needful, and under proper precautions, to be superintended by the health officer, or other person duly appointed, for furnishing said vessel with any supplies she may be in want of; and if the commander or master of any vessel, so placed in quarantine, have not a yellow flag on board, the health officer or Port Captain shall order one to be furnished forthwith, at the expense of the said commander or master, who shall hoist the same, or cause it to be hoisted, as directed, and to be kept up during the day, so long as the vessel may be detained in quarantine, under a penalty of twenty pounds sterling; and during the night, the commander or master of any vessel so placed in quarantine, shall in lieu of such yellow flag, hoist, or cause to be hoisted, at the fore-topmast-head, or fore-topgallantmast-head, two lighted lanterns, one over the other, under a penalty of twenty pounds sterling.

In absence of health officer, Port Captain may grant pratique.

12. In case of the illness, or other necessary absence, of the officer of health, the Captain of the Port may give pratique to any vessel, whereof the commander or master has signed the health certificate as aforesaid: Provided, such vessel has not troops or convicts on board, and has not touched at or communicated with vessels coming from any of the ports or places on the coast of Africa or adjacent islands, not within the limits of this Colony, in any of which cases the Port Captain shall not give pratique, but a competent officer shall be expressly appointed to act for the health officer, and shall proceed as has been directed, in foregoing tenth section of this Law.

Governor may give directions, according to circumstances, in cases of quarantine.

13. The Lieutenant Governor of this Colony, by and with the advice of his Executive Council, may, with respect to any vessel arriving in or anchoring off a port thereof, and having any malignant disease of an infectious or contagious nature on board, or on board of which any such disease may have appeared in the course of the voyage, or under any suspicious circumstances, as regards the public health, give directions through the health officer, or other competent officer acting for him, for cutting off all communication between such vessel, or any person affected with such disease, and the rest of Her Majesty's subjects, or inhabitants of this Colony, by placing the said vessels, together with their crew, passengers, letters, goods, ware, and other merchandise, in quarantine, according to the circumstances of each particular case, and likewise may give orders for shortening the period of quarantine, or for mitigating it, or for wholly releasing the said persons, letters, goods, or vessels, from quarantine, as to him may seem proper (A).

Masters of vessels and others, placed in quarantine, to be under orders of health officer or Port Captain.

14. All commanders or masters of vessels, and other persons liable to quarantine, who may have been placed in quarantine, as aforesaid, and all persons having had any intercourse or communication with them, shall be subject, in respect to such quarantine, during the period they are detained therein, to such orders as they may receive from the health officer, or Port Captain, or other competent officer acting

(A) As to expenses of feeding persons in Quarantine Station, see Law 43, 1884, s. 2, post.

for them, and the said officers are hereby authorised and required to enforce all due obedience to the said order, and, in case of necessity, to call in others to their assistance; and any person who is liable to, or under quarantine, refusing or neglecting to obey such orders, or knowingly and wilfully attempting to escape, or to evade, the performance of quarantine, or landing or attempting to land, any letters, goods, wares, or merchandise, so placed under quarantine, shall, on conviction thereof, be liable to a penalty of one hundred pounds sterling. **Law 3, 1858.**

Penalty for evading quarantine.

15. If, in the case of any person placed in strict quarantine, either on board ship, or in any lazaretto, or other place, allotted for the performance of quarantine, it should be necessary for the due security of the public health, that guards be placed over such person, either in boats or on shore, it shall be lawful for such guards, if an attempt at escape should be made by any such person so placed in strict quarantine, to resist the same by open force, and to use their arms in case of absolute necessity, and such guards shall be held justified for the same in the event of any bodily injury being inflicted, on any such person attempting to break quarantine. **Persons attempting to escape from strict quarantine may be resisted by force.**

16. Any person, not authorised under this Law, who may wilfully and knowingly communicate with any vessel placed under quarantine, or with any person under such quarantine, whether on board ship or on shore, or may carry away any goods, letters, wares, or merchandise, placed under quarantine, and any officer, superintendent, or other person placed in charge of, or as a guard, over any vessel, persons, or goods, under quarantine, who may wilfully connive at, or assist in, any breach of the quarantine regulations established under this Law, shall be liable to a penalty of one hundred pounds sterling. **Penalty for communicating without authority with vessels, &c., in quarantine.**

17. It shall be lawful for the Lieutenant Governor, from time to time, to appoint stations, to direct lazarets to be constructed and maintained, and to make such regulations respecting the placing of vessels in quarantine, as he may deem meet, and to appoint all such officers as he may deem necessary, for the purpose of carrying such regulations into effect. **Governor may appoint stations, &c., and make regulations.**

18. Any person adjudged guilty of any offence under this Law, may, in default of the payment of the penalty imposed for that offence, be imprisoned for any period not exceeding six months, and with or without hard labour. **Imprisonment in default of payment of penalties.**

19. All such offences as aforesaid, shall be prosecuted for at the instance of the Attorney-General, and shall be heard and determined before the Resident Magistrate of the County of Durban, and all penalties that may be recovered as aforesaid, shall be paid into the Colonial Treasury: Provided, that in any case the Governor may award the whole or any portion of any penalty imposed and recovered, to any person upon whose information or testimony the offender was convicted. **Prosecutions.**

Penalties, how disposed of.

20. The health officer, to be appointed under this Law, shall be entitled to receive for every examination or inspection, instituted by order of the Port Captain under this Law, from the master, owner, or agent, of such vessel, a sum of one pound one shilling sterling, for each such examination or inspection as he may make with regard to such vessel, by order of the Port Captain. **Fee to health officer.**

21. This Law shall commence and take effect from and after the passing thereof. **Commencement**

Law 3, 1858.

SCHEDULE A.

Schedule.

Form of Declaration of Health.

Questions.

1. Name of vessel, and commander or master?
2. From what port, and whither bound?
3. When sailed?
4. At what intermediate ports or places touched on the voyage, and date of sailing thence?
5. Any troops or convicts on board, and what number?
6. With what vessel communicated during the voyage?
7. Date or dates of such communication?
8. Has any person on board suffered any illness of any kind during the voyage, if so, what are, or were, the symptoms of the complaints?

I do hereby solemnly and truly declare, to the best of my knowledge and belief, that the vessel under my command is in a perfectly healthy state, and that during the voyage neither measles, small pox, cholera morbus, yellow fever, nor any other malignant disease of a contagious or infectious nature, has made its appearance on board, and that I have not touched at any port except as above mentioned, or been boarded by or communicated with any vessel having, to my knowledge and belief, any of the above diseases on board, and I am ready to make this declaration on oath whenever I may be called upon to do so.

Given under my hand this _____ day of _____ 18____
 Commander or Master.

Law No. 10, 1859.

“To amend the Law No. 3, 1858, entitled, ‘Law to amend the Law relating to Quarantine.’”

[21st June, 1859.]

WHEREAS it is expedient to amend the Law relating to Quarantine, by exempting from the provisions of the said Law Her Majesty's ships of war, and by limiting the operation of said Law to the harbour and outer roadstead of Port Natal:

BE IT THEREFORE ENACTED by the Lieutenant Governor of the Colony of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

[1. *Her Majesty's ships of war shall be and are hereby exempted and excluded from the provisions and operation of said Law No. 3, 1858 (A).]*

2. The said Law shall only apply to such ships or vessels as shall come to anchor or arrive in the outward bay or the inner harbour of Port Natal.

3. This Law shall commence and take effect from and after the publication thereof in the “GOVERNMENT GAZETTE” (B).

Repealed
section.

To what ships
the Law shall
apply.

Commencement

(A) This sec. is repealed by Law 11, 1883, post, (B) July 12, 1859.

Law No. 4, 1882 (A).

“To amend the Law No. 3 of 1858, relating to Quarantine, and to give power to the Governor to declare an infected Port or Ports.”

[28th August, 1882.]

WHEREAS it is expedient to amend the Law No. 3, 1858, relating to Quarantine, by giving power to the Governor to declare from time to time, by Proclamation, that every vessel arriving at or off any port of this Colony, from any place in which he shall be informed, or has reason to believe, that any contagious or infectious disease is prevalent, shall perform Quarantine :

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

1. As often as the Governor, with the advice of the Executive Council, shall by Proclamation notify that any place or places, whether on this Continent or beyond the seas, is or are infected with any contagious or infectious disease dangerous to the public health, and that it is probable that such disease may be brought from such place or places to the Colony of Natal, then, and immediately from and after such notification, all ships and vessels whatever arriving from or having touched at any such place or places, shall be, and be considered to be, liable to Quarantine within the meaning of the Law No. 3, 1858, and of any order made or hereafter made by the Governor, with the advice of the Executive Council, and notified by Proclamation, concerning Quarantine and the prevention of infection, or of any rules and regulations made under and by virtue of Law No. 2, 1882, entitled Law “To confer upon the Natal Harbour Board certain powers in relation to Quarantine.”

Governor by Proclamation to declare infected port or ports.

2. It shall be lawful for the Governor, with the advice of the Executive Council, from time to time, to make such orders or rules as may be deemed necessary to meet exceptional cases, and to determine whether and under what circumstances any ship or vessel may be partially or wholly exempted from the operation of the first section of this Law, although such ship or vessel may have touched at any such place or places as are referred to in that section.

Governor to make orders and rules to meet exceptional cases.

3. This Law shall commence and take effect from and after the publication thereof in the “NATAL GOVERNMENT GAZETTE” (B).

Commencement

Law No. 11, 1883.

“To amend the Law No. 10, 1859, relating to the exemption of Her Majesty’s Ships of War from the operation of the Quarantine Law, No. 3 of 1858.”

[12th November, 1883.]

WHEREAS it is expedient to repeal Section One of Law No. 10, 1859, entitled “Law to amend the Law No. 3, 1858, entitled ‘Law to amend the Law relating to Quarantine,’ and to confer upon the Governor in Council certain powers to relax the Quarantine Regulations in the cases of Her Majesty’s Ships of War” :

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

(A) See Law 43, 1884, post

(B) Aug. 29, 1882.

Law 11, 1883.
Repeal.

Governor in Council has power to direct quarantine authority to release H.M. Ships of War having illness on board, or having touched at infected port, upon report of health officer.

Definition of "Ships of War."

Commencement

1. Section One of Law 10, 1859, shall be and the same is hereby repealed.

2. When any of Her Majesty's Ships of War anchoring or arriving at Port Natal, shall be unable to obtain pratique in consequence of the illness of any person on board any such Ship of War, or shall arrive from or shall have touched at any port declared by the Governor in Council to be an infected port, and shall have undergone examination by the Health Officer or other competent officer acting for him, and upon a report of such examination being made to the Governor in Council, His Excellency shall, if he think proper, direct the local Quarantine Authority to release such vessel or vessels from the performance of quarantine, and thereupon the local Quarantine Authority shall release such vessel absolutely, or upon such conditions as may be approved by the Governor in Council, and shall grant to the Master or person having command of such vessel a certificate in writing of such examination and release. Upon the production of such certificate to the Port Captain, or other Port Official appointed for the purpose, such vessels shall be allowed to communicate with the shore for the purpose of coaling, taking in water, wood, or stores, or for the purpose of embarking and disembarking troops and the equipments belonging thereto.

3. The term "Ships of War" shall mean and include vessels engaged exclusively for the conveyance of Her Majesty's Naval or Military Forces or Stores.

4. This Law shall commence and take effect from and after the date of the promulgation of Her Majesty's assent thereto in the "NATAL GOVERNMENT GAZETTE" (A).

Law No. 2, 1884.

"To make Provision for Enforcing Quarantine Regulations on the Inland Borders of the Colony."

[18th August, 1884.]

WHEREAS it is expedient in the interests of public health to make provision for the enforcement of Quarantine Regulations on the inland borders of the Colony of Natal:

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

Governor may appoint quarantine stations on or near inland borders of the Colony, and make regulations regarding quarantine.

1. It shall be lawful for the Governor, from time to time, to appoint such quarantine stations as he may deem necessary at places on or near the inland borders (B) of the Colony, to direct lazarets to be constructed and maintained, and to make such regulations as he may deem meet respecting the placing in quarantine of persons, goods, letters, wares, or merchandise; to appoint all such officers as he may consider necessary for the purpose of carrying such regulations into effect; and to make regulations concerning quarantine and the prevention of infection, and issue such orders and give such directions as shall appear to be necessary to cut off all communication between any person infected, or under the circumstances likely to be infected, with any contagious or infectious disease, and the rest of the inhabitants of the Colony (C).

(A) Nov. 13, 1883.

(B) This Law is extended to the whole of the Colony by Act 4, 1899, s. 1, post.

(C) Under certain circumstances the

powers of Governor may be exercised by a Magistrate; see Act 14, 1899, s. 2, post; but, as to Boroughs and Townships, see sec. 8 of that Act.

2. The Governor in Council is hereby authorised to pay out of the General Revenue all such moneys as may be necessary for defraying the costs incurred in the construction and maintenance of such lazarets, and all incidental expenses connected with the up-keep of such establishments and the maintenance of and medical attendance on any persons placed in quarantine under the provisions of this Law.

Law 2, 1884.
Expenses to be defrayed out of the general revenue.

3. The Governor in Council is also hereby empowered to fix penalties for contraventions of any of the regulations framed under this Law : [Provided that no fine imposed by such regulations shall exceed £20 or in default of payment imprisonment with or without hard labour for three months (A)].

Penalties for contraventions of regulations.

4. [Repealed by Act No. 14, 1899.]

5. [Repealed by Act No. 14, 1899.]

6. All penalties incurred under by-laws or regulations made under this Law shall be paid to Her Majesty, Her heirs, and successors, and unless partly or wholly remitted shall be applied to the uses of the Government of the Colony.

Appropriation of penalties.

7. This Law shall commence and take effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (B).

Commencement.

Law No. 43, 1884.

"To extend the provisions of Law No. 4 of 1882, and to make provision for the payment of certain Expenses incurred in connection with Quarantine at the Port."

[8th November, 1884.]

WHEREAS it is expedient to amend Law No. 4, 1882, entitled Law "To amend the Law No. 3 of 1858, relating to Quarantine, and to give power to the Governor to declare an infected Port or Ports":

AND WHEREAS it is also expedient to make provision for the payment by owners or masters of vessels of expenses incurred at the public Quarantine Station in connection with the maintenance of passengers or crews of such vessels as may be placed in Quarantine at the instance of the Quarantine authority at the Port:

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

1. From and after the coming into effect of this Law, the provisions of the said Law No. 4 of 1882 shall, in addition to the cases therein referred to, be deemed to apply to any Port from which any vessel has arrived at Port Natal having any malignant disease of an infectious or contagious nature on board, or on board of which any such disease may have appeared in the course of the voyage.

Law 4, 1882, to apply to Port from which vessel has arrived having infectious disease on board.

2. In every case in which any of the passengers or crew of a vessel placed in Quarantine under the provision of Sec. 13 of Law 3, 1858, shall be transferred from such vessel to any public Quarantine Station, the owner or master of such vessel shall be liable for the payment of expenses connected with the feeding of such persons during the period such persons shall be quarantined in such Station: Provided that this Section shall not apply to the cases of Indian Immigrants introduced into the Colony at the instigation and expense of the Government of Natal, nor to the crews of vessels conveying such

Owner or Master of vessel quarantined liable for expenses connected with feeding of persons quarantined.

Exemptions.

(A) This proviso repealed and other words substituted by Act 14, 1899, s. 7, post.

(B) Aug. 19, 1884.

Law 43, 1884. Indian Immigrants, if the contagious disease from which the crew of the vessel is or may have been suffering, was not introduced into the vessel by any member or members of such crew, but had broken out in the first instance amongst the passengers. And in case the disease shall have been introduced into the vessel by any member or members of the crew, or shall have broken out in the first instance amongst the crew, the owner or master of the vessel shall be liable for the expenses incurred as aforesaid, in regard to passengers, as well as the crew placed in the Quarantine Station.

How expenses recoverable.

3. All expenses incurred under the last preceding Section shall be recoverable in any competent Court in the Colony.

Commencement

4. This Law shall commence and take effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (A).

Law No. 16, 1890 (B).

"For the Prevention of the Disease of Leprosy."

[7th July, 1890.]

WHEREAS the disease of Leprosy is prevalent and increasing in this Colony, and it has become expedient and necessary to take effectual steps to check its increase, and, if possible, to exterminate it:

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

Power to take lands.

1. It shall be lawful for the Governor, with the advice of the Executive Council, for the purpose of acquiring sites for the erection of leper hospitals, or for the establishment of leper locations as hereinafter provided:

- (a) To take and set apart any unalienated Crown lands of the Colony.
- (b) To resume, take, enter upon and use any portion or portions of land vested in the Natal Native Trust (c).

Purposes for which lands are to be taken.

Lands so taken shall be as follows:—

- (a) Lands taken for the purpose of erecting thereon hospitals for lepers.
- (b) Lands to be set apart for the residence thereon of lepers and other persons as hereinafter provided. Such lands shall be known as leper locations. Any leper hospital may be erected and maintained on a leper location.

Certain lands exempted.

2. The following lands shall be exempted from the operation of the preceding section:—

- (a) Lands belonging to Her Majesty the Queen under whatever title, and whether as Admiralty or War Department lands or otherwise.
- (b) Lands vested in or in the occupation of any public department, or reserved for any public purpose.
- (c) Lands belonging to or occupied by any society or institution for religious, educational, benevolent, literary, or scientific purposes.
- (d) Lands specially exempted by the Governor in Council on public grounds.

(A) Nov. 11, 1884.

(B) This Law has not yet been brought into force.

(c) See sub-s. added by Act 15, 1894,

post.

- (e) Lands set apart as commonages for towns or villages. Land included within the limits of any borough, township, village, or immigrants' settlement. Law 16, 1890.
- (f) Lands leased or occupied under the provisions of "the Mines Law, 1888" (A).

3. The Governor in Council may order the fencing and enclosing of any land taken as aforesaid, and may direct the building thereon of hospitals or other tenements and accommodation required for carrying into effect the provisions of this Law for the residence and treatment of lepers. Fencing, enclosing, and building on land taken.

4. And whereas doubts exist as to the conditions under which the disease known as leprosy is likely to be communicated from one person to another, and it has been deemed expedient for the more effectually dealing with leprosy within this Colony to make a distinction between such cases of leprosy as are advanced and likely to be of immediate danger to other persons, and such cases as are less advanced, and to make separate provision for dealing with cases of the one kind and of the other: Be it therefore enacted that in this Law the term "infectious leprosy" whenever used shall mean leprosy in an advanced and grievous stage, whether resulting in loss of any members of the body, or enfeeblement of any powers of body or mind, or in any other evident mark of the disease. Meaning of term, "infectious leprosy."

5. Whenever it shall come to the knowledge of any Magistrate that any person resident or being in his division is afflicted with infectious leprosy, or is suspected to be so afflicted, it shall be the duty of such Magistrate to grant a warrant directing that such person be taken or apprehended and kept in proper custody in a gaol or hospital or other place for the purpose of examination as provided in the next following section, and there to remain until he be removed or discharged according to law. Apprehension of persons afflicted with infectious leprosy.

6. The Magistrate shall thereupon cause such person to be examined by the District Surgeon and by another duly qualified medical practitioner. If from their reports made on oath it appear that such person is afflicted with infectious leprosy, the Magistrate shall forward the said reports to the Colonial Secretary for submission to the Governor. It shall be lawful for the Governor, if he see fit, thereupon to order that such person be removed to a hospital for lepers, therein to be confined according to the provisions of this Law. Examination.

7. If from the said reports it appear that the person reported to be afflicted with infectious leprosy is not so afflicted, the Magistrate shall forthwith discharge him from custody: Provided that when such reports leave it doubtful whether or no such person be so afflicted, the Colonial Secretary may submit the case for the consideration of the Medical Board, and the report of the Medical Board shall, together with the other reports before mentioned, be submitted to the Governor, who, if satisfied upon the consideration thereof that the person is a leper, may order him to be removed to a hospital for lepers, to be therein confined according to the provisions of this Law: otherwise the Governor shall direct him to be discharged. Order for removal to a hospital.

8. If any person afflicted with leprosy shall desire to submit himself to treatment according to the provisions of this Law, and for that purpose shall present himself to a Magistrate, the Magistrate shall thereupon require the District Surgeon to examine such person. If, from the report of the District Surgeon it appear that such person is afflicted with leprosy, it shall be lawful for the Governor thereupon to order that such person be removed to, and placed in a hospital Discharge of person reported not to be afflicted.

Procedure where case doubtful.

Voluntary submission of a leper to treatment.

(A) Repealed by Act 43, 1899, tit. "MINES AND COLLIERIES."

Law 16, 1890. for lepers, or otherwise, if he see fit, in a leper location, to be confined according to law, in such hospital or location (A).

Reception order.

9. The warrant for the admission and detention of any person in a hospital or location under the provisions of the preceding sections of this Law, to be known as a reception order, shall be signed by the Colonial Secretary, and addressed to the Superintendent of the hospital or location, and shall be in the form set forth in Schedule A, or the form set forth in Schedule B, as the case may be.

Duration of order.

10. Every reception order or other warrant for the admission of a person into hospital or asylum for lepers, shall expire at the end of one year from its date, unless continued as hereinafter provided.

How continued in force.

11. A reception order shall be continued and remain in force after the expiration of one year from its date, for successive periods of three years, if at the end of each period, that is at the end of the first year, and at the end of each succeeding term of three years, a report of the Resident Surgeon of the hospital, certifying that the patient is still suffering from leprosy, is sent to the Magistrate of the Division. Such report shall be sent to the Magistrate, not more than one month, and not less than seven days before the end of each period. The Resident Surgeon shall, at the same time, furnish to the Magistrate such further information concerning the patient to whom the report relates, as the Magistrate may require. The Magistrate shall forward the report and other information concerning the patient to the Colonial Secretary, for the information of the Governor.

Resident Surgeon's reports.

Saving in case of delay of report.

12. If from any cause the report referred to in the last preceding section be not furnished before the expiry as originally granted or continued as aforesaid, of any reception order, then, notwithstanding the expiry of such order, the person named therein shall not, merely by reason of such expiry, be entitled to be discharged from custody until after the lapse of one month after the date of the expiry of the reception order.

Hospital enclosure, entry and departure.

13. Every hospital for lepers shall be enclosed by a sufficient wall of brick or stone, and no person shall be allowed to enter or leave such enclosure except in conformity with the rules and regulations to be made on that behalf under the provisions of this Law. Male and female lepers shall be entirely separated from each other while in such hospital.

Separation of sexes.

Enquiry as to prevalence of leprosy.

14. Whenever it shall be reported to the Governor that leprosy is prevalent in any place, or neighbourhood, or Native location, he may order the Magistrate of the division in which such neighbourhood or Native location is situated, to institute an enquiry to ascertain whether leprosy be there prevalent or not. For the purposes of this Law leprosy shall be deemed to be prevalent when more than five persons residing within a circle having a radius of three miles, are afflicted with leprosy.

Inspection and report by District Surgeon.

15. The enquiry to be so made shall include an inspection of the place and persons by the District Surgeon, who shall report the results thereof to the Magistrate, together with a list of the persons found to be afflicted with leprosy, showing in respect of each particulars as to sex and approximate age.

Report to Governor of result of enquiry.

16. It shall be the duty of the Magistrate to report to the Governor the result of the enquiry so made, and to forward, together with his report, the report and list furnished to him by the District Surgeon.

Governor may direct Magistrate to proceed.

17. If from such enquiry and report as aforesaid the Governor in Council shall be satisfied that leprosy is prevalent in any place,

(A) As to admission to location of relatives of leper, see Act 24, 1895, s. 3, post.

neighbourhood, or Native location, he may direct the Magistrate to take steps to place the persons reported to be suffering from leprosy within a leper location. Law 16, 1890.

18. The Magistrate shall thereupon issue to each such adult person, and to the parent or guardian of each such person being a minor, a notice in the form set forth in Schedule C of this Law, requiring such persons to enter a leper location, to be named in the notice, within one month from the date of the notice, there to remain until discharged according to law. Service of the notice may be effected by any constable or other person authorised by the Magistrate to do so. Service may be effected either personally or by leaving the notice with some person living at the residence of the person upon whom the notice is required to be served, or in the case of a Native by leaving it with the headman of the kraal, and in every case of service upon a Native the exigency of the notice shall be explained to the person to whom the notice is delivered. The Magistrate shall keep a list of all notices issued and shall cause a record of the date and manner of the service of each, and of the person by whom the same was served, and such list and record shall be proof of service having been effected as recorded, unless the contrary be shown. Notice to enter location. Schedule C.
Service of notice.
Proof of service.

19. A copy of the aforesaid list and record certified under the hand of the Magistrate shall be authority to the Superintendent of a leper location to receive the persons named in the list into the leper station as lepers, and shall be effectual as a reception order within the meaning of the tenth and eleventh Sections of this Law. Copy of list and record of notices, &c., to take effect as Reception Order.

20. Every person upon whom notice shall be served as aforesaid, shall be obliged within one month from the date of the service to place himself within the leper location specified in the notice: Provided that if any person shall feel aggrieved by such notice he shall be entitled to apply to the Magistrate to appoint a time for hearing his objection. It shall be the duty of the Magistrate to notify to the applicant and to the District Surgeon the time appointed for hearing such objection, and to require the attendance of the District Surgeon thereat. If upon the hearing of such objection it appear to the Magistrate that the person is not affected with leprosy, he shall cause the name of such person to be struck off the list of persons supposed to be afflicted with leprosy, but if it appear to the Magistrate that such person is so afflicted, he shall so inform such person, who shall thereafter be required to conform to the exigency of the aforesaid notice: Provided that it shall be lawful for the Magistrate to lay the case before the Colonial Secretary for submission to the Medical Board, by whose decision the Magistrate shall abide: Provided also that it shall be lawful for the person so applying to the Magistrate to appeal to the Supreme Court or the Circuit Court having jurisdiction from the decision of the Magistrate, and in any case the time within which such person shall be obliged to comply with the exigency of the notice shall be extended until the expiration of one month after the hearing of his objection or the judgment in appeal. Obligation to comply with notice.

21 (A). If at any time any person or persons belonging to the family or being relatives of a person confined in a leper location shall signify to the Magistrate a desire to be placed in such location together with the person confined there as aforesaid, it shall be lawful for the Magistrate, if he be satisfied of the relationship claimed, to issue to the Superintendent of the location a warrant or reception order in the form set forth in Schedule D of this Law, requiring him to receive and place such person or persons in the location. Such warrant Confinement of relatives of leper in location with their relative.

(A) See Act 24, 1895, s. 3, post.

Law 16, 1890. or order shall be effectual as a reception order within the meaning of the 9th and 10th Sections of this Law.

Discharge of person not afflicted with leprosy.

22. It shall be lawful for the Magistrate in whose Division a leper location is situated, upon receiving a report from the Resident Surgeon of the location that any person there confined is desirous of being discharged, and is not afflicted with leprosy, to direct the Superintendent of the location to discharge such person, who shall thereupon be discharged accordingly.

Power of Governor to discharge.

23. It shall be lawful for the Governor at any time, on sufficient reason to him appearing, to cause any person to be discharged from confinement in a leper location.

Resident Surgeon's annual report.

24. It shall be the duty of the Resident Surgeon of every leper location to furnish a report to the Magistrate of the Division at least once in every year, and in the month of January, upon the sanitary condition of the location, with particulars upon the health of every person confined therein, and giving his opinion of the results attained by the establishment of the location.

Inspections of hospital or locations by Magistrate.

25. It shall be the duty of every Magistrate in whose Division there is a leper hospital or leper location to visit each such hospital or location at least three times in every year, and to report to the Government upon the management and conduct thereof, and any other important matters relating thereto.

Cost of acquiring land and establishing hospital or location.

26. The cost of acquiring any land for the purposes of a hospital or location for lepers, and of the erection of buildings and fencing and generally of establishing a hospital or location for lepers, shall be a charge upon the general revenue of the Colony, and payable from moneys granted for that purpose in a Supply Law.

Cost of maintenance.

27. The cost of maintaining a hospital for lepers or a leper location, and the persons confined therein (save so far as the same may be otherwise defrayed as provided in the twenty-ninth section of this Law), and the salaries and wages of officers, warders, and other persons employed in and about the hospital or location, and of conveying persons thereto, and of all matters required for the effectual upkeep, management, and carrying on of such hospital or location, shall be a charge upon the general revenue of the Colony, and for incurring and paying the same this Law shall be sufficient authority: Provided that such cost and expenses shall not in the first instance be incurred except by the authority of a Supply Law granting moneys for the purpose, and thereafter no such cost and expenses shall be incurred and paid exceeding in any year the annual rate of the costs and expenses last authorised by a Supply Law, unless by the express sanction of the Governor in Council.

Who shall be deemed to be in custody.

28. Every person detained for examination or placed as a leper in a hospital for lepers or a leper location, and every person upon whom notice has been served in terms of the nineteenth section of this Law, after the expiration of the time allowed in the said section for complying with such notice, and every person placed in a leper location under the provisions of the twenty-second section of this Law shall be deemed to be in lawful custody until discharged therefrom, and shall while in such custody be subjected to all orders and all rules and regulations lawfully made. Every person escaping from any lawful custody in which he may be kept under the provisions of this Law may be pursued, arrested, and taken back into such custody by any person whomsoever, and any person aiding in the escape of any person from lawful custody as aforesaid shall be guilty of an offence, and being convicted thereof shall be liable to a fine not exceeding £20, and in default of payment thereof, to imprisonment for any term not exceeding six months.

Escaping from custody.

29. Notwithstanding the provisions of the twenty-seventh section, it shall be lawful for the Superintendent of a hospital or location for lepers, in all cases in which a person in custody shall be possessed of sufficient means to defray the expenses of his maintenance in such hospital or location, to make a special agreement for his maintenance therein. **Law 16, 1890.**
Special agreement for expenses of maintenance.
30. Save as is herein expressly provided, and as may be provided under the rules and regulations made under the provisions of this Law, no communication or intercourse shall be allowed between the persons confined in a hospital or location for lepers and any person not confined therein and not being an officer or servant engaged in and about the precincts of such hospital or location. **Prohibition of communication with persons confined.**
31. Every person who shall hold or attempt to hold unauthorised communication with a person confined in a hospital or location for lepers, or who shall aid a person in escaping therefrom, or shall enter the precincts thereof without permission from some person having authority to grant the same, shall be guilty of an offence. **Unauthorised communications, &c.**
32. Every person detained in custody under the provisions of this Law, shall have the liberty and privileges of seeing his friends and legal advisers at such reasonable times and subject to such regulations as shall be lawfully determined by the rules and regulations to be made under the provisions of this Law. **Privilege of seeing friends and legal advisers.**
33. If the Supreme Court or any Judge thereof presiding at any Circuit Court or sitting in Chambers shall receive information upon oath that any person not afflicted with leprosy is confined as a leper in a hospital or location for lepers, such Court or Judge shall have full power and authority to order the Superintendent of such hospital or location to bring such confined person in proper custody to any gaol or hospital for examination, and if upon the report or evidence given upon oath by two duly qualified medical practitioners it shall appear to the satisfaction of the Court or Judge that such person is not a leper, it shall be lawful for the Court or Judge to direct him to be immediately discharged from further custody in such hospital or location for lepers. **Powers of Supreme Court or a Judge in case of confinement of a person not a leper.**
34. The Governor may appoint for every hospital or location for lepers an officer to be called the Superintendent, who shall have the direction and management of such hospital or location. The Governor may also from time to time appoint all warders, guards, and other officers to be attached to every such hospital or location. **Superintendent, &c., of hospital or location appointed by Governor.**
35. Every hospital or location for lepers shall be placed under the supervision of a qualified medical person, to be appointed by the Governor, with the title of Resident Surgeon. Every such Resident Surgeon shall reside at or near to the hospital or location, and it shall be his duty to inspect such hospital or location and the persons confined there, to perform all medical offices required in respect of all inmates, including the officers of the hospital, to see that proper food and necessary comforts are supplied to the patients, and that the premises are properly and cleanly kept, and generally to exercise medical supervision of the hospital or location, and to perform such duties as shall be lawfully appointed to him by the regulations to be made under the provisions of this Law. **Resident Surgeon, duties of.**
36. The Governor in Council may from time to time make, repeal, alter, and add to rules and regulations defining the duties and relations of all Resident Surgeons, Superintendents, warders, guards, and other officers of hospitals or locations for lepers, and relative to the classification, treatment, religious and other instruction, and safe custody of the lepers confined therein, the mode of communication by and with such lepers, the mode in which the lepers may be visited, the rations and clothing of the lepers, the rules to be observed by persons **Governor in Council may make rules and regulations.**

Law 16, 1890. confined in the hospitals or locations, and generally all such other rules and regulations as may be necessary for the maintenance of good order and discipline in any such hospital or location (A).

Governor may confer on Superintendent summary jurisdiction in certain offences.

37. It shall be lawful for the Governor to confer upon the Superintendent of any hospital or location for lepers the power to have and exercise a summary jurisdiction, as hereinafter provided, in trying and punishing offences committed by warders, guards, and other subordinate officers or servants attached to such hospital or location against any of the rules and regulations for the time being in force. The Governor may at any time withdraw from any Superintendent any power so conferred as aforesaid.

Limit of punishment.

No punishment to be inflicted by any Superintendent by virtue of any powers conferred under the provisions of this section shall be of any other kind or exceed in severity the following punishments, that is to say:—

In the case of Europeans a fine not exceeding ten shillings in any one month.

In the case of Natives a fine not exceeding five shillings in any one month.

Limitation of jurisdiction.

Provided that it shall not be lawful for any Superintendent to try any case of drunkenness or any offence of an equally serious nature, and provided also that if the Superintendent deem any offence too serious for him to deal with, he may report the same to the Magistrate of the Division to be enquired into and determined by such Magistrate according to law.

Contraventions generally cognisable by Magistrate.

38. All contraventions of the provisions of this Law, or the rules and regulations made thereunder, shall, except as otherwise specially provided, be cognisable in the Court of the Magistrate of the Division or District in which such offence has been committed.

Persons introduced into Colony under Labour or Immigration Laws may be sent back if afflicted with leprosy.

39. Whenever it shall appear that any persons being Indian immigrants, introduced into the Colony under the provisions of the Laws on that behalf, or Natives of any part of Africa introduced into the Colony under the provisions of Law No. 13, 1859, entitled, "Law to amend and regulate the Laws relating to the introduction and engagement of Immigrants from territories to the eastward of the Cape of Good Hope, not within Her Majesty's dominions in India," or of Law No. 15, 1871, entitled "Law to facilitate the obtaining of Labour," are afflicted with leprosy, it shall be lawful for the Governor to cause such persons to be conveyed out of this Colony and taken back to the country whence they first came to this Colony.

Duties imposed on Medical Board, District Surgeons, &c.

40. All members of the Medical Board, District Surgeons, and other medical practitioners shall be obliged, when thereto required by the Colonial Secretary or a Magistrate, to render assistance and make any examination or inspection provided for by this Law, and to furnish a report thereof. Nothing in this section contained shall be held to take away any claim for remuneration and expenses which any District Surgeon or medical practitioner might have in respect of any service performed by him as aforesaid.

Interpretation.

In this Law "medical practitioner" shall mean any surgeon or physician licensed to practise under the provisions of any Law for the time being in force in the Colony.

Short title.

41. This Law may be recited as "The Leprosy Law, 1890."

Commencement

42. This Law shall take effect at such date after the promulgation thereof as the Governor may fix by proclamation in the "GOVERNMENT GAZETTE" (B).

(A) As to rules respecting non-leprous inmates, see Act 24, 1895, post.

(B) No Proclamation has yet been issued in terms of this section.

SCHEDULE A.

Law 16, 1890.
Schedules.Hospital Reception Order, }
Law No. 16, 1890, Sec. 9. }*Order for the Reception of a Leper.*

To the Superintendent of the Hospital for Lepers at.....

You are hereby authorised and required to take and detain
....., in the hospital under your charge, to
be there maintained and treated as a leper, according to the provisions
of Law No. 16, 1890: For which this shall be your warrant.

Dated at , Natal, the day of
, 18

Colonial Secretary of Natal.

SCHEDULE B.

Location Reception Order, }
Law No. 16, 1890, Sec. 9. }*Order for the Reception of a Leper.*

To the Superintendent of the Location for Lepers at.....

You are hereby authorised and required to take and detain.....
....., in the location under your charge, to
be there maintained and treated as a leper, according to the provisions
of Law No. 16, 1890: For which this shall be your warrant.

Dated at , Natal, the day of
, 18

Colonial Secretary of Natal.

SCHEDULE C.

Notice to enter a Location, }
Law No. 16, 1890, Sec. 18. }

NOTICE.

To....., residing at.....

Take notice that under the provisions of Section 18, of Law No. 16,
1890, you are hereby required, within one month from this date, to
enter the location for lepers at.....
there to remain until discharged in due course of law.

Dated the day of , 18

Magistrate for the Division of

SCHEDULE D.

Location Reception Order, }
Law No. 16, 1890, Sec. 21. }
VOLUNTARY SUBMISSION. }*Order for the Reception of a Person into a Location under the
provisions of Section 21, of Law No. 16, 1890.*

To the Superintendent of the location for lepers at.....

You are hereby authorised and required to receive and detain
..... in the location under your charge, to
be there maintained according to the provisions of Law No. 16, 1890:
For which this shall be your warrant.

Dated at , Natal, the day of
, 18

Magistrate,

Division of

Act No. 15, 1894.

“To amend the Leprosy Law, 1890.”

[5th July, 1894.]

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:—

Amendment of
sec. 1, Law 16,
1890.

1. Section 1 of Law No. 16, 1890, shall be amended by inserting therein, after the first sub-section (b) thereof, the following sub-section:—

Taking of
private lands.

(c) To purchase, take, enter upon, and use any private lands, save as in the second section of this Law excepted. For the purposes of this sub-section, private lands shall mean all lands alienated from the Crown other than Natal Native Trust Lands.

Incorporation
of Lands
Clauses Consoli-
dation Law,
1872.

2. For the purpose of giving effect to Section 1 of Law No. 16, 1890, as amended by this Act, “The Lands Clauses Consolidation Law, 1872,” shall be incorporated with this Act: Provided that any lands resumed and taken from the Natal Native Trust to be set aside under the provisions of the said Law solely for the purposes of a location or hospital for Natives shall be excluded from the foregoing provision of this section, and may be so resumed and taken without any compensation or payment whatsoever to the Natal Native Trust.

Act No. 24, 1895.

“To Amend the Leprosy Law, 1890.”

[8th August, 1895.]

WHEREAS it is expedient to Amend the Law No. 16, 1890, known as the “Leprosy Law, 1890,” as amended by Act No. 15, 1894:

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:—

Short title.

1. This Act may be cited as the “Leprosy Law Amendment Act, 1895.”

Joint construc-
tion.

2. This Act, and the “Leprosy Law, 1890,” and the Act No. 15, 1894, shall be read and construed together as one Act.

Admission to
leper location of
family or
relatives of per-
sons confined
there.

3. If any person or persons belonging to the family or being relatives of a person about to be confined in a leper location, shall signify to the Magistrate a desire to accompany and to be placed in such location together with the person so about to be confined there as aforesaid, it shall be lawful for the Magistrate, if he be satisfied of the relationship claimed, to issue to the superintendent of the location a warrant or reception order in the form set forth in Schedule D of the “Leprosy Law, 1890,” or as near thereto as may be; and such warrant or order, if countersigned by the Secretary for Native Affairs, shall be effectual as a reception order within the meaning of the 9th and 10th sections of the said “Leprosy Law, 1890,” for the admission and detention in such leper location, subject to the rules and regulations relating to such leper location, of such family and relatives of any leper and their children: Provided that in the case of minors accompanying any such leper as aforesaid to any leper location, the consent of the parent or guardian may be taken on behalf of such minors.

4. In addition to the powers contained in the 36th section of the "Leprosy Law, 1890," the Governor in Council may, from time to time, make, repeal, alter and add to rules and regulations relative to the classification, treatment, religious and other instruction and safe custody of non-leprous persons confined in any leper location, the mode of communication by and with such non-leprous persons, the mode in which they may be visited, the rations and clothing of such non-leprous persons, the rules to be observed by them, and generally all such other rules and regulations as may be necessary for the maintenance of good order and discipline amongst them and for carrying out the provisions of this Act.

Act 24, 1895.
Rules respecting non-leprous persons confined in location.

5. Every person placed in a leper location under the provisions of this Act shall be deemed to be in lawful custody until discharged therefrom, and shall, while in such custody, be subjected to all orders and all rules and regulations lawfully made, and every person, so placed in a leper location, escaping from lawful custody in which he may be kept under the provisions of this Act, may be pursued, arrested, and taken back into such custody by any person whomsoever; and every such person so escaping and every person aiding in the escape of any such person from lawful custody as aforesaid shall be guilty of an offence, and being convicted thereof shall be liable to a fine not exceeding £20, and in default of payment thereof to imprisonment for any term not exceeding six months.

Custody and compulsory detention of non-leprous inmates.

Penalty for escaping or aiding escape.

Act No. 2, 1897.

"To amend the Laws relating to Quarantine."

[5th May, 1897.]

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. Whenever any place has been proclaimed, under Law No. 4, 1882, as an infected place, the Governor in Council may, by a further Proclamation, order that no person shall be landed from any ship coming from such place.

Prohibition against persons landing from ships coming from an infected place.

2. Any such order shall also extend to a ship having on board passengers who have come from a proclaimed place, notwithstanding that they may have embarked at some other place, or that the ship has not touched at the proclaimed place.

Extension of order to persons from infected place embarking at other places.

3. Any such order as aforesaid shall be in force until revoked by a further Proclamation.

Duration of order.

4. Any person who shall land in contravention of this Act, shall, if practicable, be at once returned to the ship in which he came to Natal; and the master of such ship shall be bound to receive such person on board, and to convey him from the Colony at the expense of the owners of the ship.

Return to ship of person landing in contravention of this Act.

5. The master and owners of any vessel from which any person shall be landed in contravention of this Act shall be liable to a penalty of not less than One Hundred Pounds Sterling for each person so landed, and the vessel may be made executable by a decree of the Supreme Court in satisfaction of any such penalty; and the vessel may be refused a clearance outwards until such penalty has been paid, and until provision has been made by the master for the conveyance out of the Colony of each person who may have been so landed.

Master and owners of vessel liable to penalty for landing in contravention of Act.

6. This Act and Laws Nos. 3 of 1858 and 4 of 1882 shall be read together as one Act.

Construction.

Act No. 14, 1899.

“To amend and extend the Provisions of Law No. 2, 1884, entitled Law ‘To make provision for Enforcing Quarantine Regulations on the Inland Borders of the Colony.’”

[31st July, 1899.]

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:—

Law 2, 1884,
extended to
whole Colony.

1. Law No. 2, 1884, entitled Law “To make Provision for enforcing Quarantine Regulations on the Inland Borders of the Colony,” shall extend to the whole of the Colony in like manner as to the Inland Borders thereof.

In certain cases
Magistrate may
exercise powers
of Governor.

2. The powers conferred by the said Law upon the Governor may at any time be exercised by a Magistrate in any part of the Colony if the circumstances appear to him not to admit of delay, but in every such case the Magistrate shall at once report the action taken by him for the information of the Governor.

Person having
authority may
order disinfection
or destruction
of goods,
clothing, &c.

3. The Magistrate or District Surgeon, or any person having authority in that behalf under the regulations, may by himself, or by any person acting under his orders, give directions for the setting and keeping apart, or for the disinfection or destruction of any clothing, goods, or other articles considered likely to disseminate small-pox or other infectious disease, as defined by proclamation, and for the purification to his satisfaction of any building, place, or thing which he may deem to be contaminated. The owner or person in charge of any building, place or thing, shall be obliged to give every assistance in the carrying out of any such directions.

Compensation
to owner of
articles
destroyed.

4. The owner of any article which may be destroyed as aforesaid shall be entitled to receive compensation therefor to the extent of two-thirds of the value of the articles destroyed, and such payment shall be made from the General Revenue, unless the destruction be ordered under the powers hereinafter defined in regard to Boroughs and Townships, in which case payment shall be made from the fund of the Borough or Township as the case may be.

Governor may
order destruction
of hut or
shanty.

5. The Governor shall have power to order the destruction of any hut or shanty, but no such hut or shanty shall be destroyed except upon the recommendation of the District Surgeon and with the approval of the Governor, and the owner of such hut or shanty shall be compensated to the extent of the value thereof.

Repeal.

6. Section 4 of Law No. 2, 1884, shall be repealed, and in lieu thereof the following shall be substituted:—

Offences.

- (a) If any person who has been lawfully placed or ordered to remain in quarantine shall escape from quarantine, or shall depart therefrom without proper permission having been granted, or shall disobey or disregard the rules and orders made by the proper authority in respect of such quarantine; or
- (b) If any person suffering from the disease of small-pox or any other disease defined by Proclamation to be infectious, or who has been declared to be suspected of having any such disease by a District Surgeon or Officer appointed for inspection or quarantine purposes, shall enter the Colony without permission from the proper authority, and without complying with the regulations regarding inspection, quarantine, and the like; or
- (c) If any person shall knowingly introduce or be a party to the introduction into Natal of any person suffering, or

suspected to be suffering, from any such disease, without such permission and compliance as aforesaid; or Act 14, 1899.

- (d) If any person shall disobey or wilfully disregard a lawful order made by an officer having competent authority in that behalf,

he shall be guilty of an offence.

7. Section 5 and the proviso of Section 3 of Law No. 2, 1884, shall be repealed, and in lieu thereof the following shall be substituted:— Repeal.

All contraventions of this Act or of the Regulations shall be cognisable in the Court of the Magistrate in whose Division the contravention was committed or the offender is found, and shall be punishable according to the ordinary criminal jurisdiction of Magistrate's Courts. Contraventions, how punishable.

8. In any Borough established under Law No. 19, 1872, and in any Township established under Law No. 11, 1881, the powers defined by Section 1 of Law No. 2, 1884, and by Section 3 of this Act shall be exercised by the Town Council or the Local Board, as the case may be, and not by the Governor or by a Magistrate, and shall be carried out and enforced in accordance with By-laws made in the same manner as the ordinary By-laws of the Borough or Township. The contravention of any such By-laws shall be punishable with the like punishments as are appointed for contraventions of this Act, and any fines imposed for the contravention of such By-Laws shall form part of the funds of the Borough or Township. Boroughs and Townships.

9. Law No. 2, 1884, and this Act shall be read and construed together as one Act. Construction.

Act No. 26, 1899.

“To amend the Law relating to Quarantine.”

[28th August, 1899.]

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

1. Whenever a ship shall arrive at this Colony

- (a) Having sailed from or touched at any place proclaimed as an infected place under Law No. 4, 1882; or
 - (b) Having any persons or things on board which have come, or are suspected to have come, either directly or indirectly from such place;
 - (c) Under any circumstances creating a suspicion that there are on board any persons or things likely to introduce disease into the Colony, or to be dangerous to the public health;
- Governor may prohibit in certain cases landing of persons or things from ship arriving in Colony.

it shall be lawful for the Governor either to prohibit the landing of any persons or things from such ship, or to order that no persons or things shall be landed except by permission of the Health Officer or other named authority, and upon compliance with the regulations made under this Act, or the Governor may by such order impose any special conditions to be complied with either before or upon the landing of any such person or thing.

2. Upon the arrival of any ship under such circumstances as aforesaid, and pending the receipt of the Governor's instructions, the Health Officer shall have authority to exercise all or any of the powers Powers of Health Officer.

Act 26, 1899. conferred by the preceding section. He shall at once report for the information of the Governor any action so taken by him.

Pratique.

3. The circumstance that pratique may have been given to a ship shall not prevent the application of this Act thereto.

Person or thing improperly landed may be returned to ship.

4. Any person or thing landed in contravention of this Act may be at once compulsorily returned to the ship, and the Master of the ship shall be bound to receive on board and convey such person or thing from the Colony at the expense of the owners of the ship.

"Thing" includes animal. Regulations.

5. The word "thing" as used in this Act shall include animal.

6. The Governor in Council may from time to time make and alter regulations for the purposes of this Act. Such regulations, and any order made by the Governor under Section 1 of this Act, may, in addition to any other measures of precaution or disinfection, provide for the destruction of any articles which it may be considered undesirable to introduce.

Contraventions, how cognizable and punishable.

7. Any person who shall contravene the provisions of this Act or any order or prohibition thereunder, or who shall disregard any conditions, imposed by such order or by the regulations, shall be guilty of an offence cognizable in the Court of a Magistrate, and shall be liable to be imprisoned with or without hard labour for any term not exceeding six months, or to a fine not exceeding Fifty Pounds Sterling.

PUBLIC HOLIDAYS.

[See Law 15, 1862, tit. "HOLIDAYS (PUBLIC)."]

PUBLIC LOANS.

[See "LOANS."]

QUARANTINE.

[See "PUBLIC HEALTH."]

QUIT-RENTS.

[See "CROWN LANDS."]

Law No. 17, 1861.

"For the conversion of Quit Rent Tenures into Freehold Tenures."

[16th August, 1861.]

WHEREAS many farms in Natal are held under quit rent tenures (A), and the owners thereof are desirous to convert the same into freehold, and whereas it is expedient that such tenures should be converted into tenures in freehold:

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, by and with the advice and consent of the Legislative Council, as follows:—

1. Any owner of land in Natal, held under quit rent tenure, may make an application in writing to the Surveyor-General, setting forth the name and description of property, the date of the grant under which the same is held, and requesting that the said quit rent tenure may be converted into freehold tenure.

Application,
how to be made.

2. The Surveyor-General, upon payment to him of a sum equal to fifteen years' purchase of the quit rent reserved in such deed of grant, and also upon payment of all such quit rent as may be due up to the date upon which such purchase money shall be paid, and upon the production of a certificate by the Registrar of Deeds of the payment of all mortgages registered against the said grant, shall issue a new deed of grant in freehold tenure. Provided always, that in all cases where, in addition to the quit rent reserved in such deed, there is, or may be payable a further or additional sum or rent, there shall, in addition and over and above the purchase money of the quit rent, be also paid a sum equal to seven years' purchase of the additional sum or quit rent, and upon payment of all such further or additional sum or rent as may be due up to the date upon which such purchase money shall be paid, before the Surveyor-General shall issue such new title deed.

How quit-rent
tenure can be
converted into
freehold tenure.

3. In all cases where farms are granted in quit rent tenure, no conversion can be made except of the original grant.

No conversion,
except of
original grant.

4. No conversion made under this Law shall prejudice or affect the rights or interests of any lessee, or transferee, in or over the quit rent property converted into freehold, or any other right or interest, or license which any person may have or enjoy in or over the same.

Conversion not
to affect certain
rights or in-
terests.

5. Every conversion made under this Law shall be deemed to be, and shall operate as a conveyance of the lands specified therein in freehold; and every covenant for the payment of the rent, and of

Conversion
under this Law
to be as a con-
veyance in
freehold.

(A) See *Vos v. Colonial Govt.*, 14 N.L.R. 201, for a definition of quit-rent tenure.

Law 17, 1861. the further or additional sum, and every condition for the breach thereof in such grant contained, shall be altogether void, and of no effect: Provided always, that every other condition or reservation in said deed of grant shall, notwithstanding such conversion, be deemed to be taken as valid and subsisting, and shall be included in such new title deed, and shall in no manner be affected, prejudiced, injured, impaired, or altered by any such conversion.

What rents payable.

6. The rent, and additional or further rent payable previous to conversion under this Law, shall include all rent due up to the period fixed for payment in the said deed, and for any broken period that may intervene between said date and the day of such conversion.

Commencement

7. This Law shall commence and take effect from and after such date as the Lieutenant Governor, by proclamation in the "GOVERNMENT GAZETTE," shall make known Her Majesty's assent to the said Law (A).

Law No. 21, 1863.

"For the conversion of certain Quit-rent Tenures into Freehold Tenures of lands granted under proclamations of 11th March and 7th July, 1856."

[3rd August, 1863.]

WHEREAS some farms in Natal are held under quit-rent tenure, but subject to certain conditions imposed by certain proclamations, dated respectively the 11th March and 7th day of July, One thousand eight hundred and fifty-six; and whereas the said conditions are onerous, and, in most instances, impossible to be performed, and the owners of said farms are desirous of releasing themselves from said conditions, and of converting said farms into freehold; and whereas it is expedient to relieve said owners from said conditions, and to convert the said quit-rent tenure into tenure in freehold:

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

Application may be made to Surveyor General, for conversion of certain quit-rent tenures into freehold.

1. Any owner of land in Natal, held under quit rent tenure, and subject to the conditions contained in the proclamations, dated respectively the 11th of March and 7th of July, 1856, may make an application, in writing, to the Surveyor-General, setting forth the name and description of property, the date of deed of grant under which same is held, and requesting that the said quit-rent tenure may be converted into freehold tenure.

Conditions necessary to conversion.

2. The Surveyor-General, upon payment to him of a sum equal to twenty years' purchase of the quit-rent reserved in any such deed of grant, and also upon payment of all such quit-rent as may be due up to the date upon which such purchase money shall be paid, and upon the production of a certificate by the Registrar of Deeds of payment of all mortgages registered against said grant, shall issue a new deed of grant, in freehold tenure, and shall attach thereto the diagram attached to the former deed, or if the old diagram be obliterated, or torn, or destroyed, or lost, then a certified copy of such diagram: Provided always, there shall be no conversion except of the original grant.

When property has been transferred, conversion to be made by memorandum as in schedule.

3. In all cases where transfer has been made of all the premises contained in any original title deed, or of any portion thereof, it shall and may be lawful for any such registered transferee thereof to

(A) Aug. 27, 1861.

make application for converting the original grant, from quit-rent into freehold tenure, to the Surveyor-General, who, upon payment being made to him of a sum equal to twenty years' purchase of the quit-rent reserved in said deed of grant, and also upon payment of all such quit-rent as may be due up to the date upon which such purchase money shall be paid, may, on any such original deed of grant, or on the duplicate original deposited in the Surveyor-General's Office, inscribe a memorandum, in the form in the schedule to this Law annexed, and such memorandum shall convert such original deed of grant from quit-rent tenure into freehold tenure. Law 21, 1863.

4. No conversion made under this Law shall prejudice or affect the rights or interests of any lessee or transferee in or over the quit-rent property converted into freehold, or any other right or interest, or license which any person may have or enjoy in or over the same. Conversion not to affect rights of lessee or transferee.

5. Every conversion made under this Law shall be deemed to operate as a conveyance of the lands specified therein, and every condition and regulation in the original deed, save and except the conditions retained in the new deed, shall cease and be of no effect: Provided always, that all the conditions contained in the new deed, or in the memorandum inscribed in original deed, shall be valid and subsisting, and shall in no manner be affected, impaired, or altered by any such conversion. Conversions under this Law to operate as a conveyance of the land.

6. The rent, and additional or further rent payable previous to conversion under this Law, shall include all rent due up to the period fixed for payment in said deed, and for any broken period that may intervene between said date and the day of such conversion. Rent to be paid up to date of conversion.

7. This Law shall commence and take effect from and after the promulgation thereof (A). Commencement

SCHEDULE.

Under and by virtue of Law No. 21, 1863, entitled "Law for the conversion of certain quit-rent tenures into freehold tenures of lands granted under proclamations dated respectively the 11th March and 7th July, 1856," I, Schedule.

Surveyor-General of Natal, do hereby convert into freehold tenure the lands in this deed contained and specified; and the condition that all authorised roads, water-courses, and thoroughfares now made or running over or through the said land shall remain free and uninterrupted as in their present or past use; and that the said land shall be liable, without compensation to any proprietor or to any sub-grantee or lessee thereof, to have any road or roads and water-courses made over any part of it for the public use and benefit by order of the Colonial Government, except those parts in which any building may actually be thereon erected at the time when any such road or water-course is required to be made; and in respect of which building, if required to be removed for any such purpose, reasonable compensation shall be made by the Government; and subject also to the general right of all travellers to outspan upon the land in suitable situations for not more than twenty-four hours, unless longer detained by just cause, and to such other regulations relative to outspan as may be hereafter deemed necessary, and declared by the Government for the interests of the public, is hereby retained and subsisting to all intents and purposes as if that deed had never been converted.

(Seal.)
Surveyor-General.

(A) Aug. 11, 1863.

Law No. 17, 1865 (A).

“For apportioning and redeeming Quitrents upon the Subdivision of Fixed Property.”

[24th August, 1865.]

WHEREAS, it is expedient that Law No. 4, 1858, be repealed, and that better provision should be made by law for apportioning and redeeming quitrents payable by or out of fixed property which may become or which may have become subdivided amongst several owners :

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, by and with the advice and consent of the Legislative Council thereof, as follows, viz. :—

Repeals.

1. Law No. 4, 1858, entitled, “Law for apportioning quitrents upon the Subdivision of fixed property,” and Law No. 7, 1859, entitled, “Law for amending the 3rd Section of Law No. 4, 1858,” shall be, and the same are hereby repealed.

On sale of portion of property, Surveyor General to divide quit-rent and endorse it on diagrams.

2. As often as the owner of any fixed property subject to the payment of quitrent shall, after the taking effect of this Law, sell or otherwise alienate any part of such property which shall have to be divided and laid off by diagram, the Surveyor-General shall certify on the diagram of the subdivided portion, the amount of quitrent which the owner thereof shall pay annually, and he shall also certify and endorse on the original deed and diagram of the remaining portion of the property so subdivided the amount of quitrent for which such remaining portion shall thenceforth be liable and the quitrent so apportioned shall be determined and fixed rateably and equitably, according to the acreage transferred and retained, which shall for the future be payable by the seller and purchaser respectively: And in every transfer deed which shall be passed of such property, the amount of quitrent to be thenceforth payable from or out of the portion of such property as aforesaid shall be certified and embodied: Provided that on no division of any property, except as hereinafter provided in Section 6 of this Law, shall less than twenty shillings quitrent be or remain payable, and on every subdivision on which less than twenty shillings shall be or remain payable the same must be redeemed by paying to the Surveyor-General a redemption fee, to be determined in accordance with the Schedule hereunto annexed: And provided also that in any such apportionment on the final computation every fractional part of a pound less than a sixpence shall be fixed at sixpence, and every fractional part less than a shilling and over a sixpence shall be fixed at a shilling: And further provided also that it shall be lawful for the owner or owners as aforesaid to redeem the rent appertaining by apportionment as aforesaid, to any subdivision or remaining portion of quitrent property, notwithstanding that the amount thereof shall be twenty shillings sterling or upwards.

Proportions to be embodied in deed of transfer.

All proportions of quit-rent less than 20 shillings must be redeemed.

Quit-rents may be redeemed although above 20 shillings.

On further subdivisions, first apportioned rent to be again apportioned.

No transfer to be passed till quit-rent paid.

3. In all cases in which any share or portion of fixed property in regard to which the quitrent shall have been apportioned as aforesaid shall be again subdivided in any manner already referred to in this Law, then the rent first apportioned as aforesaid shall in its turn be again apportioned, certified, and endorsed in manner and form as aforesaid, and so on in regard to succeeding subdivisions, so long as such subdivisions shall continue to be made.

4. No transfer shall be effected of any subdivided piece of land subject to the payment of quitrent, unless the quitrent due thereon shall have been paid; that is to say, the quitrent due on the original grant in all cases of subdivision of such grant, or the apportioned

(A) See Law 23, 1868, post.

quitrent due on any subdivided portion, in case of a further subdivision as provided in the last preceding clause. **Law 17, 1865.**

5. The owner of any portion of a subdivided grant or piece of land subject to the payment of quitrent, which may have been transferred prior to the taking effect of this Law, or the owner of any remaining portion of such land, the quitrent of which land shall not have been apportioned, may at any time apply to the Surveyor-General to have the quitrent and additional rent (if any) on such land apportioned and certified or redeemed in the same manner as provided for by Section 2 of this Law.

Quit-rent of land subdivided prior to this Law, may be apportioned under it.

6. In all cases in which the owner or owners of the remainder of any original grant shall have the rent appertaining to such remainder apportioned in accordance with Section 5 of this Law, the Surveyor-General shall at the same time also apportion the amount of rent appertaining to any subdivision or subdivisions of such original grant of which such rent shall then not have been apportioned: Provided always, that in accordance with Sections 2 and 7 of this Law, the rent on any such subdivision shall be redeemed when the amount shall be less than five shillings, and such redemption fee may be recovered by the party paying the same from the owner of the land on which such rent shall have been so redeemed: Provided further, that no transfer shall be effected of any such subdivided portion of land of which the apportioned quitrent shall amount to less than twenty shillings, unless such quitrent shall also have been redeemed.

When rent of remainder of original grant apportioned, rent of subdivided parts also to be apportioned.

Rent on divided portion to be redeemed if under 5 shillings.

Also if under 20 shillings.

7. In all cases where the title of the grant shall contain a condition or stipulation for the payment of further or additional rent, as a fine for non-occupation or otherwise, such additional rent shall in every case of subdivision of such land and apportionment or redemption of the quitrent chargeable thereon, also be apportioned or redeemed and certified in like manner and at the same rate, and be thenceforth chargeable to the owners of the subdivided or remaining portions of such land and certified in the deeds of transfer in like manner as is provided by this Law with respect to the apportionment or redemption of quitrents: Provided always, that in cases of redemption of quitrents which shall be computed less than twenty shillings as provided in Section 2, or less than five shillings, as provided in Section 6 of this Law such "additional rent" shall not be included in such computation, but be added to the amount of redeemable quitrent in the same proportion as above described.

Additional penal rent to be apportioned in like manner.

Additional rents not to be computed in redemption of quit-rents under 20 and 5 shillings.

8. As often as the quitrent and additional rent (if any) payable by or out of any fixed property in its original extent shall have been apportioned in manner and form as by this Law provided, and as often as any further subdivision and apportionment of quitrent, as provided for in Section 3 of this Law, or of additional rent (if any), shall have been effected, certified, and endorsed, then each share or portion of such property shall be chargeable with its share or proportion of such quitrent and additional rent (if any), according to such apportionment and no more, precisely as if such share or proportion had been originally granted subject to such apportioned amount of rent, and no more.

On further subdivision, additional rent to be apportioned.

9. The Surveyor-General shall keep a register of all cases of apportionments and redemption of quitrents, and additional rents made and certified by or with him under the provisions of this Law, setting forth the name of the owner, the description and extent of the land, the situation of the same, the amount of rent and additional rent chargeable thereon, and the date from which such charge shall commence; or, if the rent or rents shall have been redeemed, the date when it shall have been so redeemed, and the amount paid; and he shall also endorse all such apportionments or redemption of rent on the

Surveyor General to keep register of apportionment and redemption of quit-rents.

Law 17, 1865. counterparts of the original deeds and diagrams of such lands filed in his office.

10. [Repealed by Law No. 17, 1876.]

11. [Repealed by Law No. 17, 1876.]

12. [Repealed by Law No. 17, 1876.]

Owner of remaining portion apportioning or redeeming quit-rent on subdivided portion, entitled to claim indemnification from owner thereof.

13. Whenever the owner of any remaining portion of subdivided property, liable to the payment of quitrent, and of additional rent (if any), shall have effected the apportionment or redemption of such rent or rents under the provisions of Sections 5, 6 and 7 of this Law, he shall have the right to claim from the owner of any subdivided portion restitution of the amount so paid for his share of the quitrent, and additional rent (if any) so apportioned; and the production of the Surveyor-General's receipt and certificate of apportionment shall be prima facie evidence that such amount was due and owing by the owner of such portion of subdivided property named in such receipt and certificate, unless proof to the contrary be adduced.

Commencement

14. This Law shall commence and take effect from and after the promulgation thereof in the "GOVERNMENT GAZETTE" (A).

SCHEDULE.

Schedule.

The fees payable for the redemption of subdivisions or remaining portions of quitrent property shall be determined as follows:—

A. On grants commonly known as registered grants,

On land commission grants;

Grants in terms of Proclamation of 22nd April, 1857;

On quitrent erven in Greytown;

At the rate of fifteen times the annual quitrent, set forth in the original deed of such grants.

B. On grants in terms of Proclamations of 11th March and 7th July, 1856; at the rate of twenty times the annual quitrent set forth in the original deeds of such grants.

C. On grants in terms of Proclamations of 29th April, 3rd July, and 7th September, 1857, and of Government Notice No. 66, dated 9th August, 1859; at the rate of fifteen times the annual quitrent, and at the rate of seven times the additional rent or fine set forth in the original deeds of such grants:

Computed in proportion to the acreage of the subdivided or remaining portion of the grant, as defined by Sections 2, 3, 5, 6 and 7 of this Law.

Law No. 23, 1868.

"To amend the Law No. 17, of 1865, entitled 'Law for apportioning and redeeming Quit-Rents upon the subdivision of fixed property.'"

[16th September, 1868.]

WHEREAS it is expedient to amend the said Law No. 17, of 1865:

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

Arrears of quit-rent may be apportioned.

1. When any apportionment of quit-rent shall be made under the provisions of said Law No. 17, of 1865, on any division of any original grant, or on any subdivision of a division of any original grant, on which the quit-rent shall have been already apportioned,

(A) Aug. 29, 1865.

and any arrears of quit-rent shall be due on such original grant or division respectively, the Surveyor-General, when making such apportionment, shall also apportion the proportion of such arrears of quit-rent as are due on such division or subdivision on which the quit-rent is being apportioned as aforesaid; and the Registrar of Deeds shall pass transfer of such last mentioned division or subdivision, on proof of payment of the proportion of such arrears of quit-rent as are due thereon, although the arrears of quit-rent, due upon the grant or division, from which such division or subdivision was made, shall not have been paid; and such proportion of arrears of quit-rent shall be paid to the officer appointed by law to receive payment of quit-rents, and shall discharge the portion of land in respect of which it shall be paid, from all further liability of any such arrears; Provided, if such proportion of arrears of quit-rent shall be paid by the purchaser, he shall (unless it shall have been otherwise agreed) be entitled to claim restitution thereof from the vendor, either by retaining an equivalent amount from the purchase price, or by legal process: Provided always, that nothing herein contained shall in any way affect the right of the Colonial Government in suing for the rent or otherwise insisting on the forfeitures incurred, or to be incurred by non-payment of quit-rent, or otherwise as to the unredeemed portion of said grant: And, provided however, that all purchase money payable on the said portion of land so to be transferred will be paid into the Colonial Treasury "pro tanto" in liquidation of all quit-rent due on said grant.

Law 23, 1868.

Registrar of Deeds to pass transfer on proof of payment of proportion of arrears.

Government's right not affected.

2. The Law No. 17 of 1865, entitled "Law for apportioning and redeeming quit-rents upon the subdivision of fixed property," shall be, and the same is hereby repealed, so far as it is repugnant to, or inconsistent with, the provisions hereof, but no further; and such Law, so far as the same is not hereby repealed, shall be read and construed along with this Law, as one Law.

Law 17, 1865, repealed so far as inconsistent.

3. In this Law, the term "quit-rent" shall include any additional rent, payable as fine, for non-occupation, or otherwise (A).

Interpretation.

4. This Law shall take effect from the promulgation thereof in the "GOVERNMENT GAZETTE" (B).

Commencement

Law No. 16, 1876.

"To provide for the Better Collection of Quitrents and other Land Rents."

[11th November, 1876.]

WHEREAS it is expedient to make provision for the better Collection of Quitrents and other Land Rents due to the Crown or the Colonial Government:

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, by and with the advice of the Legislative Council thereof, as follows:—

1. The Law No. 19, of 1863, entitled Law "For the Better Collection of Quitrents and other Land Rents," shall be, and the same is hereby repealed.

Law 19, 1863 repealed.

2. [Amendment of Law No. 12, 1869, which is repealed by Law No. 33, 1887, post.]

Obsolete sections.

3. [Repeal of Sec. 4, Law No. 12, 1869.]

(A) See *Sir. Genl. v. Francis*, 4 N.L.R. occupation.
113, with regard to what constitutes (B) September 22, 1868.

Law 16, 1876.

All quit-rents payable to Surveyor General.

Surveyor General may sue for quit-rents.

Rent being payable to other officer, to be an immaterial variance in any suit.

Summons stating rent is payable to Surveyor General to be sufficient description.

Suits to be in name of Surveyor General.

Notice may be given to defendant to do away with necessity of proving or producing documents.

Governor may authorise Magistrates to receive quit-rent.

Obsolete section.

Definition of terms.

4. All quitrents, and other land rents, now due, or at any time hereafter to become due, to the Crown or Colonial Government of Natal, shall be payable to the Surveyor-General, for and on account of the Government of this Colony.

5. The Surveyor-General may, in all Courts in this Colony, sue for the recovery of any such rents, in the name of the "Surveyor-General of Natal," and may, after judgment obtained, proceed in that name to carry any judgment into execution, as provided by Law.

6. In all suits or actions instituted by the said Surveyor-General under this Law, the fact that any land rent sought to be recovered in such suit or action is, by the terms of the grant or lease, or other instrument in writing, payable by the grantee or lessee, or his or their heirs and successors, to any other officer or person than the said Surveyor-General, shall be deemed an immaterial variance, and such rent shall, notwithstanding, be recoverable by the said Surveyor-General, in virtue of such grant or lease, or other instrument in writing.

7. It shall not be necessary in the summons, or in any subsequent pleading or proceeding in any such suit or action by the said Surveyor-General, to set forth that, by the grant or lease, or other instrument in writing, the rent claimed is, by the grant or lease, or other instrument in writing, payable to any particular officer or person therein named, and describing the same as due to the said Surveyor-General shall be deemed a sufficient description in that respect.

8. All actions or suits, whether original, or in appeal, or review, for anything alleged to be illegally done under this Law, shall be instituted and carried on against, and in the name of, the "Surveyor-General of Natal."

9. It shall not be necessary, in any such suit aforesaid, to produce in evidence the duplicate original grant or lease, or other instrument in writing, by virtue of which any rent is claimed and filed in the office of the Surveyor-General, or in that of the Registrar of Deeds, or to call any witness to prove any such grant or lease, or other instrument in writing: Provided that in the summons, or notice of trial, as the case may be, the defendant shall be apprised that, if he needs its production, he is required to produce the copy of such grant or lease, or other instrument in writing, in his possession, at such trial.

10. The Lieutenant Governor may, by notice in the "GOVERNMENT GAZETTE," authorise, in place of the Surveyor-General, any Resident Magistrate to receive the quitrent, or other land rents, due or to become due to the Crown or Colonial Government of Natal, under or by virtue of any deed of grant, or lease, or other instrument in writing, for any land situate in his county or division; and after the publication of such notice, all quitrents and other land rents then due, or thereafter to become due, to the Crown or the Colonial Government of Natal, under or by virtue of any deed of grant, or lease, or other instrument for any land situate in such county or division, shall be paid to the Resident Magistrate thereof: Provided that nothing in this section contained shall abridge or affect the right or power of the Surveyor-General to sue for and recover any such rent, as provided by this Law. The Resident Magistrate so authorised shall pay over or account for such rents so received to the Colonial Treasury, in the usual manner, and furnish month by month to the Surveyor-General a detailed return of the rents so received.

11. [Actions pending to be proceeded with under Law No. 19, 1863, repealed by Sec. 1 of this Law.]

12. The terms "Colonial Treasurer," or "Surveyor-General of Natal," and the term "Resident Magistrate," shall mean the officer discharging the duties of the office in question for the time being.

13. [Joint construction of Law No. 12, 1869, repealed by Law No. 33, 1887, post.]

Law 16, 1876.
Obsolete section.

14. All quitrents and other land rents shall be due and payable to the Surveyor-General on the 31st day of December in each and every year, any condition or stipulation in any subsisting grant, lease, or other instrument in writing, to the contrary notwithstanding.

All quit-rents payable on 31st December in each year.

15. All quitrents and other land rents which have become due and payable during this present year, and which have not yet been paid, shall be payable on the 31st day of December next, and the person liable to pay the same shall also pay a further sum as rent, proportioned from the day the said rent became due, to the 31st day of December next, and calculated accordingly.

Overdue quit-rents to be paid on 31st December, with additional sum to that date.

16. In all cases where quitrents and other land rents which have become due and payable during the present year have been paid, there shall be payable on the 31st day of December next, by the person liable to pay the said rent, a further sum as rent proportioned from the date when the last payment of the said rent became due to the 31st day of December next, and calculated accordingly.

Provision for cases where quit rents due in 1876, have been paid.

17. This Law shall not be deemed or taken as in any way altering or annulling any other condition or stipulation in any subsisting grant or lease.

Other conditions not altered.

18. In this Law the term "Quitrent" shall include any additional rent payable as fine for non-occupation or otherwise.

Definition of "quit-rent."

19. This Law shall commence and take effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (A).

Commencement

Law No. 17, 1876.

"To repeal and re-enact with amendments the Sections 10, 11, and 12, of Law No. 17, 1865."

[11th November, 1876.]

WHEREAS it is expedient to repeal the Sections 10, 11, and 12, of Law No. 17, 1865, entitled Law "For apportioning and redeeming Quitrents upon the subdivision of fixed property":

AND WHEREAS it is expedient to re-enact the said Sections with amendments:

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, by and with the advice of the Legislative Council thereof, as follows:—

1. Sections 10, 11, and 12 of Law No. 17 of 1865, entitled Law "For apportioning and redeeming Quitrents upon the subdivision of fixed property," shall be and the same are hereby repealed.

Secs. 10, 11 and 12 of Law 17, 1865, repealed.

2. The Surveyor-General shall, on or before the eighth day of each month, transmit to the Auditor and Registrar of Deeds a return, setting forth in full detail all apportionments and redemptions of Quitrents and additional rents certified by him during the preceding month, under the provisions of Law No. 17 of 1865.

Surveyor General to make monthly returns.

3. The Registrar of Deeds shall, on or before the eighth day of each month, transmit to the Surveyor-General and Auditor a return, setting forth in full detail all apportionments and redemptions of Quitrents and additional rents recorded or registered of properties transferred by him during the preceding month under the provisions of Law No. 17 of 1865; and the Surveyor-General shall, from time to time,

Registrar of Deeds to make monthly returns to Surveyor General and Auditor.

(A) Dec. 26, 1876.

Law 17, 1876. supply the Resident Magistrate of each county or division with lists of all properties situate in such county or division on which quitrent and additional rent are payable, for the guidance of such Resident Magistrate in the collection thereof.

Certificate of Surveyor General or Magistrate to be *prima facie* evidence of quit-rent being due.

4. In all actions, suits, and proceedings for the recovery of apportioned Quitrents or additional rents in arrear, a certificate of the Surveyor-General or of the Resident Magistrate of the county or division in which the property shall be situated, setting forth the amount due and the period for which such rent is so due, shall be "*prima facie*" evidence that such amount is due and owing by the person named therein, unless proof to the contrary be adduced.

Laws 17, 1865, and 23, 1868, to be construed with this Law.

5. Law No. 17 of 1865, entitled Law "For apportioning and redeeming Quitrents upon the subdivision of fixed property," as now amended; Law No. 23 of 1868, entitled Law "To amend the Law No. 17 of 1865, entitled 'Law for apportioning and redeeming Quitrents upon the subdivision of fixed property,'" and this Law, shall be read and construed together as one Law.

Commencement

6. This Law shall commence and take effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (A).

Law No. 33, 1887.

"To repeal and re-enact, with certain amendments, the Law No. 12, 1869, entitled 'Law to facilitate the recovery of Quit Rents and other Land Rents and Fines for Non-occupation.'"

[27th June, 1887.]

WHEREAS it is expedient to repeal and re-enact, with certain amendments, the Law No. 12, 1869:

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

Repeal.

1. The Law No. 12 of 1869, entitled "Law to facilitate the recovery of Quit Rents and other Land Rents and Fines for Non-occupation," shall be and the same is hereby repealed; but such repeal shall be without prejudice to anything lawfully done under the said Law, or the past operation thereof, or any suit or proceedings instituted under the provisions thereof, before the date of the coming into operation of this Law.

Form of action.

2. The Surveyor-General, or other the officer for the time being authorised or empowered to sue for, and on account of, the Crown or the Colonial Government for the recovery of any quit-rent, land-rent, or non-occupation fine, may sue therefor, in the form commonly known as a provisional summons, and shall be entitled to claim provisional sentence thereon.

Notice as in Schedule A to be attached to the summons.

3. In any such provisional summons, it shall not be necessary to produce or to serve upon, or exhibit to the defendant, the original or copy of the deed, grant, or lease whereon the provisional claim is founded; but there shall be endorsed on, or annexed to, such summons a notice in the form contained in Schedule A, or as near thereto as may be.

Documents and proofs by which provisional claim may be supported.

4. In order to support any claim for provisional sentence for any non-occupation fine or rent due or alleged to be due to the Crown or the Colonial Government, the production of a notice (in the form contained in Schedule B, or as near thereto as circumstances admit),

(A) Dec. 27, 1876.

together with an affidavit or certificate of service thereof, upon the party named in such notice, or (in the event of such party being absent from the Colony) proof of publication thereof in the "GOVERNMENT GAZETTE"; and also certificate by the proper officer that such notice has not been complied with, shall be, and the same are hereby, declared to be sufficient prima facie evidence that the condition of occupation during the period specified in the notice of the farm or land referred to therein has not been fulfilled, and shall entitle the plaintiff to claim provisional sentence for the fine or rent thereby incurred. Law 33, 1887.

5. The lands in respect of which such rent has accrued, and for payment of which rent, judgment has been obtained, shall, in default of other satisfaction of the judgment, be put up for sale at the upset price of a sum equal in amount to the arrears of Quit Rent or non-occupation tax due in respect of such lands, and the costs incurred in suing for the same, and the land shall be sold to the highest bidder. In default of satisfaction of judgment, land to be sold to highest bidder.

6. If, at the time and place appointed for the sale, no person shall offer to purchase any such lands offered for sale at any price or sum equal to or higher than the upset price at which the same shall have been put up, it shall be lawful for the Supreme Court, after receiving the report of the Master of such Court to that effect, and upon application by the Government, to adjudicate such lands to Her Majesty the Queen, as and by way of forfeiture and resumption by reason of the non-performance of the conditions of the grant of such lands; and such lands shall thereupon be vested in Her Majesty the Queen, Her Heirs and Successors absolutely, discharged from all and all manner of other estates, charges, or incumbrances whatsoever, and to be held, used, and disposed of, in such and the same manner as any other Crown Lands in this Colony. If no sale effected, Supreme Court may adjudicate land to Her Majesty.

7. This Law shall commence and take effect from and after the publication thereof in the "GOVERNMENT GAZETTE" (A). Commencement

SCHEDULE A.

To the within named A. B., Defendant. Schedules.

Take notice, that if you need the production of the deed (of grant) within referred to, and whereon the said provisional claim is founded, or other deed under which you hold said farm, you are hereby required to bring and produce at the within-mentioned time and place the copy of such deed (of grant) or other deed in your possession.

Dated at Pietermaritzburg, this day of 18
Clerk of the Peace and Plaintiff's Attorney.

SCHEDULE B.

To A. B., (registered owner of the farm
situated in the County of)
Sir,

Take notice, in terms of the conditions of grant of above-named farm, now standing registered in your name, that you are hereby required to give to me, on or before the full
and satisfactory proof, on oath, of yourself or some other credible person of the "bona fide" occupation during at least six months of the year 18 , of said farm or piece of land known as in
in pursuance of the provision, or in conformity with the condition in the original deed of grant thereof. And take further notice that, failing your compliance with this requirement, the fine or additional

QUIT-RENTS.

Law 33, 1887.
Schedule.

rent for non-occupation imposed by said deed will, at the expiry of this notice, be held to have accrued due and payable by reason of such default of proof.

Dated at this day 18

Resident Magistrate.
(or Surveyor-General, as the case may be.)

Endorsements on Return Copy.

I, do make oath, and say that on the day of I served notice whereof the above is a true copy, upon the above-named by (handing the same to him personally at or by leaving the same at his residence, with as the case may be) who replied that Sworn before me, at this day 18

I, Resident Magistrate of the County of do certify that the within-named has not given proof of the occupation of his farm as required by the within notice.

18 Resident Magistrate.

RAILWAYS.

[See "ZULULAND."]

Law No. 4, 1875.

"To empower the Lieutenant Governor to make, maintain, equip, and work certain Railways in the Colony of Natal, and to confirm a provisional Contract entered into for the construction of the same."

[11th November, 1875.]

WHEREAS, it is expedient that the Railways hereinafter described or referred to should be constructed as speedily as may be:

AND WHEREAS, the Lieutenant Governor has, by the Crown Agents for the Colonies in London, entered into a provisional contract with George Wythes and John Jackson, subject to the confirmation thereof by the Legislature of this Colony, for the construction and temporary maintenance of the said Railways, and a copy of such contract is contained in the Schedule of this Law:

AND WHEREAS, in case the Lieutenant Governor of Natal may not, on or before the first day of April, 1876, acquire, lease, or obtain the use of the Railway of the Natal Railway Company as hereinafter is provided, it is expedient to empower the Lieutenant Governor to enter into and conclude a contract with or on behalf of the said George Wythes and John Jackson for the construction and temporary maintenance of the line of Railway hereinafter called and described as the Point Line:

AND WHEREAS, it is expedient that the Lieutenant Governor should be empowered to make, maintain, equip and work the said proposed Railways, and that the said provisional contract should be confirmed, and that certain powers and authorities should be conferred on the Lieutenant Governor in relation to the construction, maintenance, equipment, and working of the same Railways:

AND WHEREAS, plans and sections showing generally the lines and levels of the said proposed Railways, and the lands to be traversed by the same, and some of which will be required for the purposes thereof, have before the passing of this Law been deposited at the office of the Clerk of the Legislative Council, and in the respective offices of the Resident Magistrates of the several counties in or through which the said Railways are proposed to be made:

AND WHEREAS, it is expedient that the provisions hereinafter contained with respect to the existing Government Railway, and with respect to the Railway and undertaking of the Natal Railway Company, be made:

AND WHEREAS, it is expedient that Law No. 3, 1874, and Law No. 6, 1874, should respectively be repealed:

BE IT THEREFORE ENACTED by the Lieutenant Governor of the Colony of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

1. This Law may be cited for all purposes as "The Natal Government Railways Law, 1875." Short title.

2. In this Law, the expression "the Lieutenant Governor" means and includes the Lieutenant Governor or other officer administering the Government of Natal for the time being; and the expression "the Railways" means the Railways by this Law authorised. Interpretation.

Law 4, 1875.

Governor and his successors incorporated.

Incorporation of Law 16, 1872.

Governor empowered to maintain railways.

Description of railways.

Confirmation of provisional contract for construction.

Railways, how to be constructed.

3. The Lieutenant Governor and his successors shall be a Corporation only for the purposes of this Law; and for those purposes shall be entitled and competent to take, hold, and dispose of lands and other property.

4. "The Lands Clauses Consolidation Law, 1872," is, except when expressly varied by this Law, incorporated with and forms part of this Law.

5. The Lieutenant Governor may make and maintain in the lines, according to the levels shown generally in the deposited plans and sections, or in such other lines, and according to such other levels, and with such deviations from the deposited plans and sections as the Lieutenant Governor shall think desirable, while preserving the general directions and the respective termini of the railways as shown on the same plans, the railways 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 railways, or any purpose connected therewith, may be taken and used without any charge or payment for the same.

6. The Railways authorised by this Law are the following:—

- (a) The Main Line.—A railway commencing by a junction with the existing line of railway at Pine Terrace, Durban, and terminating at the City of Pietermaritzburg, at a point near to Government House.
- (b) The North Coast Line.—A railway commencing by a junction with the existing line of railway at a point near the Umgeni River, and terminating at the town of Verulam.
- (c) The South Coast Line.—A railway commencing with the intended line of railway (a) from Durban to Pietermaritzburg, at a point about 4½ miles from Durban, and terminating at the village of Isipingo.
- (d) The Point Line.—A railway commencing at or near the Customs' House, situate at the Point, on the harbour of Natal, and terminating at or near Pine Terrace, in the Borough of Durban, to be a junction, if so required, with the Main Line and North Coast Line, by this Law authorised to be constructed.

7. The said provisional contract with George Wythes and John Jackson is hereby confirmed, and the Lieutenant Governor in case the Government may not on or before the 1st April, 1876, acquire, lease, or obtain the use of the railway of the Natal Railway Company in terms of the 21st section of this Law, is hereby empowered and authorised to enter into and conclude a contract with the said George Wythes and John Jackson, for the construction and temporary maintenance of the railway hereinbefore called the Point Line; and the Lieutenant Governor is hereby authorised and empowered to grant to the contractors, or permit them to exercise and enjoy, all such rights, privileges, and exemptions as are in and by the same contract agreed to be given or allowed to them.

8. The railways shall be constructed as single lines on the gauge of 3 feet 6 inches; but the Lieutenant Governor may from time to time cause double lines to be constructed at such place or places on the course of the said railways as he may think expedient.

9. The railways shall in respect of all Crown lands heretofore granted by the Government in quit rent or freehold or leasehold tenure, and in or over which the railways or any part thereof shall be made, be deemed to be roads 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 or deeds of grants (A), be entitled to any compensation for the land taken for the purposes of the railways; and compensation in such excepted cases shall be assessed in manner following and in no other, that is to say, that if any permanent improvements upon any such lands be destroyed or injured, or required to be removed by or for the construction of the said railways or any part thereof, or there be any other ground or cause for which compensation may be claimed in terms of any such title deed or deeds of grant, for the construction of any road made for the public good by order of the Government, it shall be lawful for the owners or occupiers of the lands upon which such improvements have been made to claim compensation, and to have the amount of said compensation determined in accordance with the provisions of the "Land Clauses Consolidation Law, 1872": Provided that such portions of Town Lands formerly granted to the Corporations of Durban and Pietermaritzburg, and which are not now alienated by either of the said Corporations of Durban and Pietermaritzburg shall be deemed, for the purposes of this Law, to be Crown Lands heretofore granted, over which the Colonial Government had reserved the rights to make roads for the public good by order of Government.

Law 4, 1875.
Railways to be deemed roads.

10. The Lieutenant 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 railways, and for the maintenance and working of the railways after completion, and pay to all or any such persons such salaries, wages, or remuneration as may from time to time be voted by the Legislative Council.

Governor may employ engineers and others.

11. The Lieutenant 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 railways, or otherwise necessary or desirable in relation thereto.

Governor may provide materials, plant, &c.

12. 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 railways, or for any purpose connected therewith, shall be free of import duty.

Materials, plant, &c., to be admitted into the Colony free of import duty.

13. The Lieutenant Governor may, on behalf of the Colony, make, enter into, and perform all such contracts, and generally may do, or authorise to be done, all such acts and things as he may think necessary or expedient for carrying into effect the purpose of this Law.

General powers of Governor

14. The Lieutenant Governor with the advice of the Executive Council, may from time to time fix and alter the fares, tolls, rates, and charges to be taken, levied, or charged for the use of the railways or the conveyance or carriage of passengers, animals, and goods thereon, or for the use of the engines or rolling-stock to be provided as aforesaid, or for telegraphic messages: Provided that the charges for the conveyance of passengers and goods shall in no case exceed, or be less than the rates to be hereafter fixed and determined by a Law to be passed by the Legislature of Natal (B).

Governor, with advice of Executive Council, may fix fares, tolls, and rates.

(A) The word "grant" is not to be taken as restricted to gratuitous grants —per Connor, C. J. (*Chick v. Colonial*

Government, N.L.R. 1877, p. 1).

(B) See Law 9, 1882, post, ss. 9 and 10.

Law 4, 1875.

And make bye-laws.

All fares, tolls, and rates to be applied first in defraying expenses of the railways, and surplus (if any) to be part of general revenue.

Table of fares, &c., and bye-laws and regulations to be published in *Gazette*.

Annual Statement of receipts and expenditure to be prepared.

Railways to be exempt from local rates and taxes.

Alteration of gauge of existing Government railway.

Authorisation of agreements with Natal Railway Co.

Governor may appoint persons to carry this Law into effect and may delegate powers.

15. The Lieutenant Governor, with the advice of the Executive Council, may, from time to time, make and publish all such bye-laws, rules, and regulations for the maintenance, management, and working of the railways and electric telegraphs or in relation thereto respectively, as he shall think fit, and may from time to time vary or rescind all or any such bye-laws, rules, and regulations, and make new ones.

16. All fares, tolls, rents, dues, charges, and sums of money which may at any time be received or levied under the authority of this Law in respect of the railways or the said electric telegraphs shall from time to time in such manner as the Lieutenant Governor shall prescribe be paid to the Colonial Treasurer for the purpose of, in the first instance, defraying thereout the costs and charges of, and attending the maintenance, working, and management of the railways and electric telegraph, and the surplus, if any, after defraying all such costs and charges, shall be applied by the Treasurer as part of the general revenue of the Colony (A).

17. Tables of the fares, tolls, rates, and charges to be from time to time fixed, and all bye-laws, rules, and regulations to be from time to time made as aforesaid, shall be published in the "NATAL GOVERNMENT GAZETTE," and from the date of such publication shall respectively be binding on all persons as if the same respectively had been expressly enacted hereby.

18. The Treasurer shall prepare annually, and lay before the Legislative Council, an account or statement of the receipt and expenditure of all moneys raised or received and expended under the authority of "The Natal Government Railways (Funds) Law, 1875," or of this Law, whether arising from loans, fares, tolls, or charges, or any other source for and during the preceding year to the 31st day of December, arranged under proper heads of receipts and expenditure, together with a statement of the balance appearing on such account; and the said account shall be duly audited and certified in like manner as other public accounts of the Colony.

19. The railways 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.

20. The Lieutenant Governor may alter the gauge of the existing Government railway from Durban to Umgeni to the gauge of 3 feet 6 inches, or procure additional works to be constructed thereon so as to provide a line or lines of rails of that gauge.

21. The Lieutenant Governor, with the advice of the Executive Council, may make and carry into effect any contracts or agreements with the Natal Railway Company for the acquisition, lease, or use by the Government of all or any part or parts of the railway and undertaking of the said Company, or for the alteration of the gauge of the Company's railway, or laying down additional rails and works thereon, and such contracts and agreements may be made on such terms and conditions as the contracting parties from time to time think fit.

22. The Lieutenant 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 Law, and may delegate to him or them all or any of the powers and authorities hereby conferred on the Lieutenant Governor, and may from time to time remove any person so appointed, and appoint another person in his stead.

(A) See proviso added by Law 18, 1876, s. 11, post.

23. The Lieutenant Governor shall not be personally liable for any loss or damage arising from or caused by anything done under the authority of this Law.

Law 4, 1875.
Governor not to be personally liable.

24. Law No. 3, 1874, and Law No. 6, 1874, are hereby repealed.

Repeal.

25. This Law shall take effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (A).

Commencement

SCHEDULE.

Natal Government Railways Contract.

Articles of Contract made the 13th day of June, 1875, between the Lieutenant Governor of Natal on behalf of the Government and Colony of Natal, by Sir Penrose Goodchild Julyan, K.C.M.G., C.B., and William Charles Sargeaunt, Esq., C.M.G., Crown Agents for the Colonies, acting for and on behalf of the said Lieutenant Governor, of the first part, and George Wythes and John Jackson, both of 103, Cannon Street, London, Contractors for Public Works, and hereinafter called "The Contractors," of the second part (B).
&c., &c., &c.

Schedule.

Law No. 18, 1876.

"To enable the Colonial Government to acquire, work, and maintain the lines of Railway between the Point and the town of Durban, and between the town of Durban and the Umgeni."

[11th November, 1876.]

WHEREAS, by a provisional agreement duly made and entered into, the Natal Railway Company have agreed to sell, and the Colonial Government of Natal to purchase, the line of Railway between the Point and the town of Durban, and all the right, title, and interest of the said Company in the same, and in the lease of the line of Railway between the town of Durban and the Umgeni, and the Railway stock, plant, lands, leases, and other things belonging to the said Natal Railway Company in and concerning the said lines of Railway as near as may be specified in the Schedule A, hereunto annexed:

AND WHEREAS, the said Natal Railway Company hold under lease from the Colonial Government the line of Railway between the town of Durban and the Umgeni, as in the Schedule A specified, and have agreed, in consideration of the above mentioned purchase, to relinquish and surrender the said lease on and after the First day of January, 1877:

AND WHEREAS, the purchase so agreed upon has been made provisionally, subject to the sanction and approval of the Legislative Council of Natal, for the price or sum of Forty Thousand Pounds sterling:

AND WHEREAS, it is expedient to confirm the said agreement, and to empower the Colonial Government to work and maintain the said lines of Railway so extending from the Point to the town of Durban, and from the town of Durban to the Umgeni, from and after the First day of January, 1877:

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

(A) Nov. 30, 1875.

(B) The articles referred to extend to

40 pages of matter, which being now of no practical use, are omitted.

Law 18, 1876.

Provisional agreement between Natal Railway Co. and Colonial Government for sale and purchase of Railway, &c., confirmed.

Effect upon Company.

Lines transferred to be deemed lines of Railway within the meaning of Law 4, 1875.

Transfer to Colonial Government.

Purchase price made a charge upon Railway Loan.

How rules may be framed for the management and working of the Railway.

Schedule B.

How rates and charges may be altered and amended.

1. The provisional agreement entered into by the Natal Railway Company to sell, and the Colonial Government of Natal to purchase the line of Railway between the Point and the town of Durban, the unexpired portion of the lease by the Colonial Government to the Natal Railway Company of the line of Railway between the town of Durban and the Umgeni, and the Railway stock, plant, lands, leases, and other things belonging to the said Natal Railway Company, as specified in the Schedule A, hereto annexed, as and for the price or sum of Forty Thousand Pounds sterling, is hereby confirmed.

2. From and after the date of the Government entering upon the possession and working of the lines of the Natal Railway Company, the rights, powers, duties, and obligations in relation to the public conferred and imposed upon the Natal Railway Company, under and by virtue of the Laws now in force in respect to the said Natal Railway Company, shall cease and determine absolutely, and the said Natal Railway Company shall cease to exist as a Corporation except for the purpose of winding up its affairs, and all the rights, powers, duties, and obligations in respect to the lines by the "Natal Government Railways Law, 1875," authorised to be constructed, shall extend and apply to the lines so transferred from the Natal Railway Company, and to the line of Railway from the town of Durban to the River Umgeni, and the said lines so transferred shall for all purposes be deemed to be lines of Railway within the meaning of said "Natal Government Railways Law, 1875."

3. All lands, tenements, and properties of every sort and description lying and being within this Colony, and now vested in or belonging to the Natal Railway Company, and whether held by freehold, quit-rent, leasehold, or any other tenure, are hereby transferred to the Colonial Government of Natal, and shall vest as fully, absolutely, and effectually, as if transfer and conveyance thereof had been duly passed according to the law and custom of this Colony before the Registrar of Deeds.

4. The purchase price of Forty Thousand Pounds Sterling, as in the first section mentioned, shall be a charge upon and is hereby made payable out of the moneys raised on loan under "The Natal Government Railways (Funds) Law, 1875."

5. The Lieutenant Governor may, from time to time, with the advice and consent of the Executive Council, frame and establish rules regulating the classification of goods, the goods that are to be charged for at special rates, the charges to be made for the conveyance of passengers and goods by the Railway, and regarding all other matters not specially enacted by this Law, and necessary to provide in every respect for the management and due and profitable working of the Railway: Provided that the charges for the conveyance of passengers and goods at rates other than special shall be those specified in Schedule B, hereto annexed: Provided further, that if in any detailed classification of goods sanctioned by the Lieutenant Governor in Council, special provision be made for any articles which are deemed exceptional, such provision shall prevail and be of force, anything in the Schedule B to the contrary notwithstanding: And provided also that the Lieutenant Governor shall be and he is hereby authorised, with the advice and consent of the Executive Council, to alter and amend the rates and charges so specified in Schedule B, but so that any increase of the charges therein fixed shall not exceed an advance of twenty-five per centum on the same, or any diminution of such charges shall not be more than a reduction of twenty-five per centum (A).

(A) See Law 9, 1882, s. 9, post.

6. If any person shall rashly or negligently, and without lawful excuse, do any act which shall be likely to endanger his own safety or that of any person travelling or being upon such Railway, he shall upon conviction be liable to imprisonment, with or without hard labour, for a term not exceeding six months, or to a fine not exceeding ten pounds, or to both. Law 18, 1876.
Penalty for conduct endangering any person.
7. If any person shall wilfully do any act, or wilfully omit to do any act, contrary to the provisions of the rules sanctioned by the Lieutenant Governor in Council, as already provided, he shall be guilty of an offence, and be liable on conviction to a fine not exceeding two pounds. Penalty for contravening rules under this Law.
8. A copy of this Law, and of the Rules and Regulations, Time Tables, and Tariff of Charges, which shall from time to time be duly made and published, shall be exhibited in some conspicuous place at each station of the Railway, so that they may be easily seen and read, and all such documents shall be so exhibited in English, and in such other language, if any, as shall be required by order of the Government. Copy of Law, rules, &c., to be exhibited in conspicuous place at each Station.
9. Any person who shall remove, deface, or in any way injure any document exhibited by the Railway authorities, in pursuance aforesaid, or any notice or document posted by them at the station, or anywhere along the line, shall be guilty of an offence, and be liable to a fine not exceeding five pounds, or to imprisonment, with or without hard labour, for a period not exceeding three months. Penalty for removing, defacing, or injuring documents or notices.
10. The Colonial Government of Natal shall enjoy all the rights, exercise the privileges, and incur the obligations conferred and imposed upon the Natal Railway Company, under the provisions of section 62 of private Law "For the incorporation of the Natal Railway Company," dated the 21st day of June, 1859, in reference to the construction, maintenance, and working of iron tramways through, over, and along all or any of the streets of the Town of Durban, and for the purposes of this Law the said section shall be construed as if the words Colonial Government of Natal or their agents were substituted therein for the word Company: Provided that nothing in this clause contained shall compel or be deemed to compel the Colonial Government to deliver any goods carried over the said lines of railway elsewhere than at the stations of each such line of railway, or to collect any goods in the Borough of Durban, for the purpose of carrying the same on the said lines (A). Government to enjoy rights of the Company as to tramways in streets of Durban; but not to be compelled to deliver or collect goods.
11. Clause No. 16 of the Natal Government Railways Law, 1875, shall be construed and read as if the words following were inserted at the end thereof:—Provided that all such surpluses shall be appropriated for the payment of the interest due from time to time under the "Natal Government Railways Funds Law," and any further surplus shall from time to time be invested by way of compound interest, to create a fund for the purpose of extending Railways other than those in the said "Government Railways Law of 1875." Addition to sec. 16 of Law 4, 1875.
12. All rules and regulations made by the Lieutenant Governor in Council for the working and management of this line shall from time to time be laid before the Legislative Council at its then sitting. Rules to be laid before Legislative Council.
13. The officers, servants, and all other persons employed in and about the working and management of this line of Railway shall not be considered or included among the Civil Servants employed in the permanent Civil Service of the Colony. Railway official not to be considered in the Civil Service.

(A) Section 62 of the Private Law referred to (now obsolete) authorised the Natal Railway Co. to lay down iron tramways through the streets.

Law 18, 1876. 14. This Law shall come into force on and after the 1st day of
 Commencement January, 1877.

SCHEDULES (A).

Law No. 2, 1877.

"For the acquisition of certain rights over Land at the Point, Port Natal."

[17th August, 1877.]

WHEREAS certain wharves have been constructed, and others are in course of construction, at the Port or Harbour of Port Natal:

AND WHEREAS increased business facilities will be afforded, and advantage accrue to the commerce and trade of the Colony by the construction and extension of certain Railway Works at the Point:

AND WHEREAS it is necessary for such purpose and advisable that a certain way or thoroughfare now in use at the Point should be closed to the public, and a right of way or thoroughfare be substituted therefor:

AND WHEREAS plans showing the aforesaid right of way or thoroughfare have, before the passing of this Law been deposited at the office of the Clerk of the Legislative Council, and in the office of the Resident Magistrate for the Borough of Durban:

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

Certain thoroughfare at Point resumed by Government.

1. The right of way or thoroughfare marked upon the plan, one copy of which is filed in the office of the Clerk to the Legislative Council, and another copy in the office of the Resident Magistrate, Durban, as "thoroughfare hitherto in use," shall be and the same is hereby resumed by and on behalf of the Colonial Government of Natal, and in connection with and for the purposes of the Natal Government Railways: Provided however, that the Colonial Government shall be bound to lay off, and set apart for, and dedicate to the uses of the public the thoroughfare as laid down and marked upon the plan above referred to as "proposed thoroughfare."

Dedication of new thoroughfare.

Private rights reserved.

2. Nothing in this Law contained shall be construed to prejudice any claim or right which the owners of or other persons interested in the three freehold lots at the Point or any other persons whatsoever, may have, or assume to have, to compensation for loss or injury caused to them by reason of the operation of this Law, or to admit that any loss or injury will be occasioned, or that any compensation can be claimed in respect of the resumption of the right of way above referred to.

Commencement

3. This Law shall commence and take effect from and after the date of the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (B).

Law No. 3, 1878.

"To provide for the employment of Locomotive Engines upon the Natal Government Lines of Railway."

[9th September, 1878.]

WHEREAS it is desirable to provide for the employment of Locomotive Engines upon all lines of Railway in this Colony, whether

(A) Schedule A sets forth the particulars of the lands, materials, &c., comprised in the purchase, and Schedule B contains a tariff of fares, rates, &c.

As both of these Schedules are obsolete they are here omitted.

(B) Oct. 9, 1877.

the same be already constructed or in course of construction, or such as may hereafter be constructed: **Law 3, 1878.**

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

1. It shall be lawful for the Government of Natal, or any Railway Contractors, or other person or persons duly authorised thereto by the said Government of Natal to use and employ Locomotive Engines or other moving power, and carriages and wagons to be drawn or propelled thereby upon any lines of Railway which have been or may hereafter be constructed in this Colony, and upon such lines of Railway as are now or hereafter may be in course of construction within this Colony. **Use of locomotive engines on any line of railway authorised.**

2. This Law shall commence and take effect from and after the date of the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (A). **Commencement**

Law No. 2, 1880.

"To provide for the Compensation in certain cases of injury sustained by Railway Construction."

[20th March, 1880.]

WHEREAS injury is occasionally suffered by the severance of lands, necessarily caused by the construction of railways, and by removal of bush therefrom under the provisions of the Laws in force in this Colony:

AND WHEREAS it is expedient that better provision should be made for the payment of compensation to landowners or others who have already sustained, or may hereafter sustain, damage in connection with the severance of lands improved by cultivation, irrigation, or otherwise:

AND WHEREAS it is expedient for such purpose to repeal Law No. 4 of 1878:

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, by and with the advice and consent of the Legislative Council thereof, as follows:—

1. Law No. 4 of 1878, entitled Law "To provide for the compensation in certain cases of injury sustained by railway construction" shall be, and the same is hereby repealed. Provided that all proceedings, matters, and things lawfully had or done before the commencement of this Law by, under, or in pursuance of the said repealed Law, shall be of the same force and effect, to all intents and purposes, as if no such repeal had taken place; and that no suit or proceeding which shall at the time of the commencement of this Law be depending in any Court shall abate or be discontinued, or be in anywise prejudiced or affected, but shall be proceeded with, heard, and determined under the provisions of this Law. **Repeal of Law 1878.**

2. In all cases where claims for compensation have been or may be preferred by reason of damage caused by railway construction, by reason of any severance (B) of lands improved by cultivation, irrigation, or otherwise, or by reason of damage done by the destruction of bush (C) which may have saleable value, the compensation so claimed as aforesaid **Claims for damage by severance or by destruction of bush to be ascertained and dealt with under Law 19, 1875.**

(A) Sept. 27, 1878.

(B) As to meaning of "any severance," see *Raw v. N.G.R.*, 6 N.L.R. 48.

(C) See *Green v. Colonial Government*, N.L.R., Sep. 1882, p. 33.

Law 2, 1880. shall be ascertained and determined in the same way as are claims for compensation now made, preferred, and adjudicated upon under the provisions of Law No. 19 of 1875, entitled Law "To provide for the construction and maintenance of the main roads of the Colony" (A).

Commencement 3. This Law shall commence and take effect from and after the date of the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (B).

Law No. 3, 1880.

"To make provision for the Making of Surveys for the Extension of Railways."

[20th March, 1880.]

WHEREAS it is expedient to make provision for the preparing, making, and performing of certain Surveys necessary for the extension of the Railway System of the Colony of Natal:

AND WHEREAS it is desirable for such purpose to repeal and re-enact, with amendments, the Law No. 1 of 1878:

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, by and with the advice and consent of the Legislative Council thereof, as follows:—

Repeal.

1. Law No. 1 of 1878, entitled Law "To make provision for the making of surveys for the extension of railways," shall be, and the same is hereby repealed. Provided that all proceedings, matters, and things lawfully had or done before the commencement of this Law, by, under, or in pursuance of the said repealed Law, shall be of the same force and effect to all intents and purposes as if no such repeal had taken place, and that no suit or proceeding, which shall at the time of the commencement of this Law be depending before any Resident Magistrate, shall abate or be discontinued, or be in any wise prejudiced or affected, but shall be proceeded with, heard, and determined under the provisions of this Law.

Appointment of Engineers, Surveyors, and others to make surveys, &c., for certain lines of Railway.

2. The Lieutenant Governor may nominate and appoint such Engineers, Surveyors, and other persons as may be required to prepare, make, and perform such surveys, estimates, and other works as may be necessary to enable the Government to invite tenders for, or to undertake the construction of lines of Railway inland from Pietermaritzburg to the Coal Fields of the Colony, and the Borders of the Free State and the Transvaal, and Coastwise from Verulam, northward towards the Tugela, and from Isipingo southward towards the Umzimkulu.

Authorisation of necessary expenditure.

3. The Lieutenant Governor is authorised and empowered to pay out of general revenue all salaries and expenses necessarily incurred in and about the preparation, making, and performing of such surveys; and such expenses shall in the first instance be paid out of general revenue, as an advance to be ultimately repaid out of some future railway loan or loans.

Right of entry upon lands on notice given.

(d) 4. Any Surveyor or other person who shall be so appointed under the provisions of this Law, may, upon giving not less than twenty-four hours' notice to the registered proprietor, if resident within the Colony, or the occupier, enter upon any lands upon which he may deem it necessary to enter for the purposes of surveying and taking levels,

(A) See *Freeman v. Colonial Government*, 9 N.L.R. 182.

(B) Mar. 23, 1880.

and of probing or boring to ascertain the nature of the soil, and to do all acts necessary for the purpose of setting out the line of the works: Provided that any such notice shall not hold good for more than one month; and provided that compensation be made to the owner or occupier thereof for any damage thereby occasioned, the amount of such compensation to be decided by the Resident Magistrate of the County or Division, whose decision shall be final: due notice of the Magistrate's enquiry into the claim to be previously given to the Surveyor by the complainant; and upon the day fixed in such notice the Magistrate may determine and decide upon the amount of compensation to be paid in respect of any such damage, and may award the amount of costs incidental to such inquiry, and determine by whom such costs shall be paid. Such compensation, and the costs, if any such should be so awarded against the Colonial Government, shall be a charge upon and be defrayed out of the general revenue of the Colony.

Law 3, 1880.

How compensation for any damage occasioned is to be ascertained.

5. This Law shall commence and take effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (A).

Commencement.

Law No. 1, 1881.

"To empower the Lieutenant Governor to make, maintain, and equip certain extensions of the Main Line of Railway in the Colony of Natal, and to enter into contracts for the construction of the same."

[2nd May, 1881.]

WHEREAS it is expedient that the Railway hereafter described or referred to should be constructed as speedily as may be:

AND WHEREAS it is expedient that the Lieutenant Governor should be empowered to enter into a contract or contracts for the construction of the whole or any part of the works up to formation level, including ballasting and laying of permanent way, required for the extension of the Main Line of Railway from Pietermaritzburg to Ladysmith, or failing such contract, to construct the said Line departmentally:

AND WHEREAS it is expedient that the Lieutenant Governor should be empowered to enter into a contract or contracts for the supply of all permanent way materials required for the said extension of the Main Line of Railway:

AND WHEREAS it is expedient that the Lieutenant Governor should be empowered to provide, either by contract or departmentally, all Station works and Telegraphs required for the said extension of the Main Line:

AND WHEREAS it is expedient that the Lieutenant Governor should be empowered to maintain, equip, and work the said extension of the Main Line of Railway, and that certain powers and authorities should be conferred on the Lieutenant Governor in relation to the construction, maintenance, equipment, and working of the same Railway:

AND WHEREAS plans and sections, and type drawings, showing generally the lines and levels of the said proposed Railway, and the lands to be traversed by the same, and some of which will be required for the purposes thereof, have, before the passing of this Law, been deposited at the office of the Clerk of the Legislative Council:

(A) Mar. 23, 1880.

Law 1, 1881.	BE IT THEREFORE ENACTED by the Lieutenant Governor of the Colony of Natal, with the advice and consent of the Legislative Council thereof, as follows:—
Short title.	1. This Law may be cited for all purposes as "The Natal Government Railway Extension Law, 1880."
Interpretation.	2. In this Law, the expression "the Lieutenant Governor" means and includes the Lieutenant Governor or other officer administering the Government of Natal for the time being; and the expression "the Railway" means the Railway by this Law authorised.
Governor and his successors incorporated.	3. The Lieutenant Governor and his successors shall be a Corporation for the purposes only of this Law, and for those purposes shall be entitled and competent to take, hold, and dispose of lands and other property.
Incorporation of Law 16, 1872.	4. "The Lands Clauses Consolidation Law, 1872," is, except when expressly varied by this Law, incorporated with and forms part of this Law.
Governor empowered to make and maintain Railways, and to take lands.	5. The Lieutenant Governor may make and maintain in the lines, according to the levels shown generally in the deposited plans and sections, or in such other lines, and according to such other levels, and with such deviations from the deposited plans and sections as the Lieutenant Governor shall think desirable, while preserving the general direction and the respective termini 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 (A). 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.
Description of Railways.	6. The Railway authorised by this Law is as under:—A Railway commencing by a junction with the existing line of Railway at the City of Pietermaritzburg, and terminating at a point in or near the town of Ladysmith.
Governor empowered to enter into provisional contracts for execution of necessary works.	7. The Lieutenant Governor may enter into a provisional 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 should the Lieutenant Governor fail in securing any satisfactory contract or contracts for the execution of these works, those works be carried out departmentally.

(A) See *Colonial Government v. Natal Land and Colonization Co.*, 8 N.L.R. 54; 10 N.L.R. 112.

8. The Railways shall be constructed as single lines on the gauge of 3 feet 6 inches, but the Lieutenant Governor may from time to time cause double lines to be constructed at such place or places on the course of the said Railways as he may think expedient.

Law 1, 1881.
Railways, how to be constructed.

9. It shall be a condition in any contract or contracts that the following sections are to be completed in the order hereinafter mentioned, and within the periods hereinafter set forth, that is to say:—

Time for completion of Railways.

- 1st. From Pietermaritzburg to Lidgetton, not exceeding two years;
- 2nd. From Lidgetton to Estcourt, not exceeding one year thereafter;
- 3rd. From Estcourt to Ladysmith, not exceeding one year thereafter.

In each case from the date of delivery to the contractor or contractors of notice of the ratification of the contract.

10. The Railways shall, in respect of all Crown lands heretofore granted by the Government in quit rent or freehold or leasehold tenure, and in or over which the Railways or any part thereof, shall be made, be deemed to be roads made, or to be made, for the public good by order of the Government, and accordingly the proprietors of such lands shall not, except in the cases provided in their several title deeds, or deeds of grant for compensation, be entitled to any compensation for the land taken for the purposes of the Railways, and further provided for by Law No. 19, 1875, or the Railway Compensation Law, 1880; and compensation in such excepted cases shall be assessed in manner following, and in no other, that is to say, that if any permanent improvements upon any such lands be destroyed or injured, or required to be removed by or for the construction of the said Railways, or any part thereof, or there be any other ground or cause for which compensation may be claimed, in terms of any such title deed or deeds of grant, for the construction of any road made for the public good by order of the Government, it shall be lawful for the owners or occupiers of the lands upon which such improvements have been made to claim compensation, and to have the amount of said compensation determined in accordance with the provisions of the Law 19, 1875 (A): Provided that such portions of Town Lands formerly granted to the Corporation of Pietermaritzburg, and which are not now alienated by the said Corporation of Pietermaritzburg, shall be deemed for the purposes of this Law, to be Crown Lands heretofore granted, over which the Colonial Government had reserved the rights to make roads for the public good by order of the Government.

Railways to be deemed roads.

Proviso.

11. The Lieutenant 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 the Legislative Council.

Governor may employ engineers and others.

12. The Lieutenant 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 materials, plant, &c.

13. All materials, plant, engines, rolling-stock, and other things imported into the Colony from time to time for the construction,

Materials, plant, &c., to be admitted into the Colony free of import duty.

(A) See *Freeman v. Colonial Government*, 9 N.L.R. 182, and 10 N.L.R. 71; also *Meek v. Colonial Government*, 13 N.L.R. 271.

- Law 1, 1881.** maintenance, equipment, or working of the Railway, or for any purpose connected therewith, shall be free of import duty.
- General powers of Governor.** 14. The Lieutenant Governor may, on behalf of the Colony, make, enter into, and perform all such contracts, and generally may do, or authorise to be done, all such acts and things as he may think necessary or expedient for carrying into effect the purpose of this Law. [Any contract or contracts so made and entered into shall be subject to the confirmation thereof by the Legislature of Natal. If such confirmation shall not be given within six calendar months from the date thereof, then at the expiration of such six months everything therein contained shall be void and of no effect. Notice in writing of confirmation having been given or withheld, as the case may be, shall be given to the contractor or contractors as soon as may be (A).]
- Contracts to be subject to the confirmation of the Legislature.**
- Railways to be exempt from local rates and taxes.** 15. 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.
- Governor may appoint persons to carry into effect this Law, and may delegate powers.** 16. The Lieutenant Governor, with the advice of the Executive Council, may from time to time appoint some fit person or persons to carry into effect the purpose of this Law, and may delegate to him or them all or any of the powers and authorities hereby conferred on the Lieutenant Governor, and may from time to time remove any person so appointed, and appoint another person in his stead.
- Governor not to be personally liable.** 17. The Lieutenant Governor shall not be personally liable for any loss or damage arising from or caused by anything done under the authority of this Law.
- Commencement** 18. This Law shall commence and take effect from and after the Proclamation by the Lieutenant Governor in the "GOVERNMENT GAZETTE" of Her Majesty's assent to the same.

Law No. 1, 1882.

"To amend the Law No. 1, 1881, entitled 'The Natal Government Railway Extension Law, 1880.'"

[2nd March, 1882.]

WHEREAS the Governor of the Colony of Natal is, under the provisions of the "Natal Government Railway Extension Law, 1880," authorised to enter into a contract for the construction, up to formation level, of the works required for the Extension Railway authorised by the said Law, 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:

AND WHEREAS it is enacted by the said "Natal Government Railway Extension Law, 1880," that any contract or contracts so made and entered into shall be subject to the confirmation thereof by the Legislature of Natal. If such confirmation shall not be given within six calendar months from the date thereof, then at the expiration of such six months everything therein contained shall be void and of no effect. Notice in writing of confirmation having been given or withheld, as the case may be, shall be given to the contractor or contractors as soon as may be:

(A) Words in brackets are repealed by Law 1, 1882, s. 1, post.

AND WHEREAS certain tenders for the construction of the said works, and for other purposes above mentioned, have been received by the Crown Agents for the Colonies, and have, by the direction of the Right Honourable Her Majesty's Secretary of State for the Colonies, been laid before the Legislative Council of Natal, with the object and for the purpose that the said Legislative Council should recommend some one of the said tenders for acceptance by the said Crown Agents, acting for and on behalf of the Governor of Natal: Law 1, 1882.

AND WHEREAS the Legislative Council of the Colony have, by Resolution passed on the Second day of March, 1882, recommended that the tender of James Perry should be accepted by the Crown Agents for the Colonies, for and on behalf of the Governor of Natal, for the construction and maintenance of the said line of Railway from Pietermaritzburg to Ladysmith:

AND WHEREAS it is desirable to give immediate effect to and to empower the Crown Agents to execute and conclude the said Contract as recommended by the Legislative Council of Natal:

AND WHEREAS it is also desirable that the Crown Agents for the Colonies should be authorised to enter into final and complete contracts for other purposes required for the said Railway Extension, as set forth in the seventh section of the said "Natal Government Railway Extension Law, 1880," as follows:—

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.

AND WHEREAS it is necessary, for the above purposes, to repeal certain portions of the said "Natal Government Railway Extension Law, 1880":

BE IT THEREFORE ENACTED by the Administrator of the Government of the Colony of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

1. The portion of the fourteenth section of the "Natal Government Railway Extension Law, 1880," set forth hereunder, that is to say, the following words:—"Any contract or contracts so made and entered into shall be subject to the confirmation thereof by the Legislature of Natal. If such confirmation shall not be given within six calendar months from the date thereof, then at the expiration of such six months everything therein contained shall be void and of no effect. Notice in writing of confirmation having been given or withheld, as the case may be, shall be given to the contractor or contractors as soon as may be,"—shall be and the same is hereby repealed; and save so far as in conflict with this Law, the said "Natal Government Railway Extension Law, 1880," shall be deemed to be in full force and effect.

Section 14, Law 1, 1881, repealed in part.

2. The Contract which the Crown Agents are, under this Law, empowered to enter into and conclude, shall be taken and deemed to be a Contract entered into and concluded under the said "Natal Government Railway Extension Law, 1880," but subject to such alterations, modifications, and amendments therein as may be mutually agreed upon between the Consulting Engineer and the Contractors, in compliance with Resolutions passed by the Legislative Council.

Contract under this Law deemed to be a contract under Law 1, 1881, subject to alterations, &c., mutually agreed upon.

3. The Crown Agents for the Colonies may accept, on behalf of the Governor of Natal, the tender of the said James Perry, and may make, enter into and conclude, on behalf of the Governor of Natal, any Contract or Contracts with the said James Perry for the due performance of the works so tendered for, in accordance with the terms and conditions of the tender so accepted, but altered or amended as in the last preceding Clause provided: Provided that in the event of no such Contract being entered into with the said James Perry,

Crown Agents may accept tender of James Perry, and make contracts with him

Law 1, 1882. the Crown Agents for the Colonies may make, enter into, and conclude any Contract or Contracts with any other persons who may be named by the Legislative Council, and according to any Resolution passed by that Body.

Crown Agents may make contracts for execution of works additional to tender, and for extension into Ladysmith.

4. The said Crown Agents for the Colonies, acting on behalf of the Governor of Natal, may make, enter into and conclude with the said James Perry, or such other person as provided in Clause 3 of this Law, a final contract or contracts for the execution of the works referred to in Section 7, subsections 2 and 3, of the said "Natal Government Railway Extension Law, 1880," and set forth in the Schedule to this Law; and also a Contract for the performance of the works necessary for the Extension of the Line of Railway into the town of Ladysmith: Provided that no such Contract shall contain anything repugnant to the terms and conditions of the Contract hereinbefore referred to: Provided further, that the prices to be paid for works executed under any such final Contract or Contracts shall not exceed the prices set forth in the Schedule to this Law, that is to say, the sum of £358,757 in all.

Proviso as to terms of contract and prices for works.

Commencement and short title.

5. This Law shall commence and take effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE," and may be cited for all purposes as the "Natal Railway Extension Law Amendment Law, 1882" (A).

THE SCHEDULE.

Schedule.

Estimate of Cost of Works additional to Contract.

Iron Bridgework	...	...	...	}	£278,280	0	0
Permanent Way Materials	...	...	...	
Switches and Crossings	...	...	...	
Fencing Materials	...	...	...	
Stations	...	...	...	56,077	0	0	
Cost of Extension into Town of Ladysmith...				24,400	0	0	
Total				£358,757	0	0	

Law No. 9, 1882.

"To continue, with certain amendments, the Law No. 25, 1880, entitled Law "To provide for the management and working of the Natal Government Railways."

[4th September, 1882.]

WHEREAS the Law No. 25, 1880, entitled Law "To provide for the management and working of the Natal Government Railways, will expire on the 31st day of December, 1882:

AND WHEREAS it is expedient to continue, with certain amendments, the provisions of the said Law:

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

1. The Law 2, 1878, entitled Law "For fixing the fares and rates chargeable for the conveyance of passengers and goods by the Natal Government Railways," shall be and the same is hereby repealed: Provided that all acts, matters, or things done, or proceedings taken

Repeal of Law 2, 1878.

(A) Mar 14, 1882.

under the provisions of the said Law shall be valid, and have the same effect as if done or taken under the provisions of this Law. Law 9, 1882.

2. All appointments made under the said Laws 3, 1877, and 25, 1880, shall be considered as appointments made under this Law; and all rules, regulations, orders, and charges made under the said expired Laws, until revoked, altered, or amended, in so far as they are not in conflict with this Law, shall continue in full force and effect, and shall be deemed to be rules, regulations, orders, and charges under this Law; and all proceedings taken under the said expired Laws before the coming into effect of this Law, and all other proceedings taken thereunder, shall be as valid to all intents and purposes, and may be continued and enforced in the same manner, as if the said expired Laws had remained in full force and effect; and all offences against the said expired Laws, or either of them, may be prosecuted, and all penalties incurred thereunder may be enforced, in the same manner as if the said expired Laws had remained in full force and effect. Rules, &c., made under expired Laws to remain in force until revoked.

3. For the purposes of this Law the expression "Railway Official" shall include the General Manager of the Railway, the assistant managers, and all such officers, servants, agents, and other persons as shall be thereunto from time to time authorised on that behalf in writing by the General Manager of the Railways: Provided that no Railway Official shall be considered or included among the Civil Servants employed in the permanent Civil Service of the Colony. Interpretation clause.

4. The Governor may appoint a fit and proper person to execute the duties and powers hereinafter mentioned, who shall be called the General Manager of the Natal Government Railways, and one or more persons, as he may deem necessary, to assist the said General Manager in the execution of the said duties and powers, who shall be called assistant managers, and such clerks and other officers as to him may appear necessary, at such salaries or wages as may from time to time be voted by the Legislative Council; and all duties and powers hereinafter required to be performed and exercised by the General Manager shall and may be performed and exercised by any assistant manager. Appointment of General Manager and other officials.

5. The General Manager of the Railways may, on sufficient cause to him appearing, and subject to the proviso hereinafter contained, summarily dismiss any Railway official for misconduct; or may suspend any such official from the performance of his duties; Provided that every Railway official so dismissed or suspended shall have the right of appeal to the Governor in Council; and, should such suspension or dismissal be confirmed by the Governor in Council, the official, if suspended, shall be thereupon dismissed from the service of the Government, or if already dismissed by the General Manager, shall be deemed to be finally dismissed without further appeal (A). Power of General Manager as regards dismissal of officials.

6. The General Manager may from time to time make such Bye-laws as he shall think fit for the purpose of regulating the conduct of the officers and servants employed on the Railway. A copy thereof shall be given to every officer and servant affected thereby. General Manager may make Bye-laws.

7. The General Manager may, by such Bye-Laws, impose reasonable penalties upon all persons, being officers or servants employed on the Railway, offending against such Bye-laws, as the General Manager may think fit, not exceeding in any one month seven days' pay of any such officer or servant: Provided that this section shall not confer any power on the General Manager to impose a fine on any indentured Indian immigrant, otherwise than provided by the special Laws of this Colony relating to Indian immigrants. Any officer or servant Penalties on servants for contravention of Bye-laws.

(A) As to meaning of "without further appeal," see *Stride v. Colonial Government*, 13 N.L.R. 158.

Law 9, 1882. employed on the Railway who may feel aggrieved by any such penalty as aforesaid, shall have the right of appeal to the Governor in Council, whose decision shall be final.⁴

Officer or servant may be dealt with before Court of Law.

8. The imposition of fines under the 7th section of this Law upon any officer or servant employed on the Railway shall (subject to the appeal hereinbefore provided for) be wholly within the discretion of the General Manager, and should it appear to the General Manager that the offence or misconduct in respect of which any such fine shall have been incurred would be better dealt with by a prosecution before a Court of Law, it shall be competent for such prosecution to be instituted in lieu of the imposition of any such fine.

Rules as to fares, rates, &c., how framed.

9. The Governor in Council may from time to time fix and impose fares and rates to be made, demanded, and received for the conveyance of passengers, goods, animals, articles and things by the Railway. The Governor in Council shall have power to pass, and publish in the "GOVERNMENT GAZETTE," and from time to time to alter, amend, vary, or annul regulations for carrying out the provisions of this Law, which regulations shall, after such publication, have the same force and effect as if "verbatim" embodied in this Law. All such regulations, or alterations thereof, shall be laid before the Legislative Council at the Session next ensuing after their promulgation.

Governor in Council may delegate powers to General Manager.

10. The Governor in Council shall have the power from time to time to delegate to or withdraw from the General Manager such of the discretionary powers vested in the Governor in Council under this Law, having reference to the fixing and imposing of fares and rates to be made, demanded, and received for the conveyance of passengers, goods, animals, articles, and things by the Railway as to the Governor in Council may seem fit.

Payment of fares.

11. No person shall enter any carriage used on the Railway for the purpose of travelling therein without having first paid his fare and obtained a ticket. Every person desirous of travelling on such Railways shall, upon payment of his fare, be furnished with a ticket, specifying the class of carriage and the distance for which the fare has been paid, and shall, when required, show his ticket to any Railway official duly authorised to examine the same, and shall deliver up such ticket upon demand to any of the Railway officials duly authorised to collect tickets. Any person not producing or delivering up his ticket as aforesaid shall be liable to pay the fare from the place whence the train originally started; but should such person, within fourteen days, prove to the satisfaction of the General Manager that he has travelled a less distance, the difference of fare will be refunded.

Tickets to be produced when demanded.

Passenger fare accepted on condition of there being room in train.

12. The fare or freight paid for the conveyance of passengers shall be deemed to be accepted only upon condition that there be room in the train. In case there shall not be room for all the passengers, those passengers who have obtained tickets for the longest distance shall have the preference, and those who have obtained tickets for the same distance shall have the preference according to the order in which they shall have received their tickets: Provided that all officers and troops of Her Majesty on duty, and being in possession of a proper certificate or pass, shall be entitled to be conveyed on such Railways in preference to or in priority over the public, without reference to the distance for which or the order in which they shall have received their tickets: Provided that no passenger who shall have taken his ticket shall be liable to removal from his place should there be room in any other portion of the train for the person so travelling on duty; and provided also that free passes may be granted to such persons or classes of persons as may from time to time be determined by the Governor in Council.

13. Any person who shall defraud or attempt to defraud the Government by travelling or attempting to travel upon such Railways without having previously paid his fare, or by riding in or upon a carriage of a higher class than that for which he shall have paid his fare, or by continuing his journey in or upon any of the carriages beyond the place for which he shall have paid his fare, without previously paying the fare for the additional distance, and with intent to avoid payment thereof; or who shall knowingly and wilfully refuse or neglect on arriving at the point to which he shall have paid his fare to quit such carriage and railway premises; or who shall transfer or profit by the transfer of the return halves of day, excursion, or other tickets; or who shall in any other manner whatever attempt to evade the payment of his fare, shall be liable to a fine not exceeding Five Pounds for each offence. Law 9, 1882.
Frauds or attempted frauds by passenger.
14. Any passenger who shall get into or upon, or attempt to get into or upon, or shall quit, or attempt to quit, any carriage upon such Railway, while such carriage is in motion, or who shall ride, or attempt to ride, upon such Railways on the steps or on any other part of a carriage except on those parts which are intended for the accommodation of passengers, shall be liable to a fine not exceeding Two Pounds for each offence. Penalty.
Entering carriage in motion, &c.
15. Any person other than the engine-man and fireman and assistant fireman (if any), who, without the special license of the General Manager of the Railways, shall ride, or attempt to ride, upon any locomotive engine or tender upon such Railways, and any person other than the guard or brakesman who, without special permission of the Traffic Manager, shall ride or attempt to ride, upon such Railways in or upon any luggage van or goods wagon or other vehicle not appropriated to the carriage of passengers, shall be liable to a fine not exceeding Five Pounds for each offence. Riding on engine, van, &c.
16. If any person shall smoke or shall chew betel, bhang, tobacco, opium, or other like substance, either on the premises, or in or upon any of the carriages belonging to the Railways, except in places and carriages which may be specially provided for the purpose, he shall be liable to a fine not exceeding Two Pounds for each offence, and if any person persist in infringing this regulation after being warned to desist by any of the Railway officials or passengers, such person, in addition to incurring the liability above-mentioned, may be removed by any such official from any such carriage, and from the premises appertaining to the Railways, and shall forfeit his fare. Smoking, chewing, &c., in prohibited place.
17. Any person who shall be in a state of intoxication, or be insufficiently or indecently clad, or shall commit any nuisance or act of indecency in any railway carriage, or upon any part of the premises appertaining to the Railways, or who shall wilfully and without lawful excuse interfere with the comfort of any passenger upon such Railways, shall be liable to a fine not exceeding Ten Pounds, or to imprisonment with or without hard labour for any term not exceeding three months, or to both, and in addition to such liability the offender may be removed by any of the Railway officials from any such carriage, and also from the premises appertaining to the Railways, and shall forfeit his fare. Being in state of intoxication or committing nuisance.
18. If any special carriage, or portion of a carriage, or any private room or apartment, shall be provided for the exclusive use of females, any male person who, without lawful excuse, shall enter such carriage, or portion of a carriage, or any such room or apartment, knowing the same to be exclusively appropriated as aforesaid, and shall remain therein after having been informed of its exclusive appropriation, or any passenger of one class who shall knowingly and wilfully refuse or neglect to leave rooms or places set apart for passengers of higher Entering private carriage, &c.

Law 9, 1882. classes, shall be liable to a fine not exceeding Five Pounds, and may be removed therefrom, and also from the premises appertaining to the Railways, by any of the Railway officials, and shall forfeit his fare.

Liability for loss or injury.

19. The Government shall be liable for loss or injury occurring on or in connection with the Railways in like manner as a private person, being a carrier by land, would be liable: Provided always that the Government may in writing contract with any person for exemption from such liability in the same manner and to the same extent as may lawfully be agreed upon between a private carrier and any other person in respect of such liability: Provided further that no claim on account of any loss or injury shall be sustained, unless a receipt shall have been given for the goods in respect of which such claim is preferred: Provided further, that nothing in this Law contained shall be taken to impose any individual liability on the Governor of this Colony, or upon the General Manager of the Railways, or upon any other Government Officer or Railway Official, for any loss or injury occurring as aforesaid (A).

Remedies for non-payment of carriage of goods,

20. If any person sending any goods upon the Railways shall fail to pay on demand any sum due for the conveyance of such goods, it shall be lawful for the General Manager to detain all or any part of such goods, or if the same shall have been removed from the premises appertaining to the Railways, any other goods the property of such person which shall then be on their premises or shall thereafter come into their possession, and also, after reasonable notice to such person, to sell by public auction sufficient of such goods to realise the sum payable as aforesaid, and all charges and expenses of such detention and sale, and out of the proceeds of the sale to retain the sum so payable, together with the charges and expenses aforesaid, rendering the overplus, if any, of the money arising by such sale, and such of the goods as shall remain unsold, to the person entitled thereto, or the General Manager of the Railways may recover any such sum by action at Law. The goods of passengers may also be detained, sold, and the proceeds disposed of as above provided for non-payment of the fare due by them.

or fare of passenger.

An account of goods brought for carriage to be furnished.

21. The owner or person having the care of any goods which shall have been carried upon any such Railways, or shall be brought on to the premises appertaining to any such Railways for the purpose of being carried on the Railways, shall, on demand by any Railway official appointed to receive goods to be carried on that part of the Railways on which such goods shall have been carried, or shall be about to be carried, deliver to such officer an exact account in writing, signed by him, of the number or quantity, weights and description of such goods: Provided that a Railway official shall in no case be bound to receive goods, or in any way be liable for goods delivered on their premises, unless such goods be accompanied by such account. This provision shall not apply to passengers' luggage.

Penalty for giving false account.

22. If any such owner or person as aforesaid shall, on demand by any such Railway official as aforesaid, wilfully give a false account of such goods, he shall, for every such offence, be liable to a fine not exceeding Five Pounds for every ton of goods, and to a fine not exceeding Two Pounds for any quantity of goods less than a ton.

Delivery of goods.

23. The Government is not bound to deliver goods arriving at the terminal or other Railway Stations, but it may, at the discretion of the General Manager, undertake the delivery of goods addressed to places within the limits of the City of Pietermaritzburg and the Town of Durban, or within such limits as may from time to time be found expedient. The delivery of goods will be considered to be

(A) See Law 21, 1891, tit. "CARRIERS," with regard to the loss of animals.

complete, and the responsibilities of the Government will be considered to terminate, when the goods shall be unloaded out of the wagon, truck, van, or cart, and placed at the door of the consignee, and receipt shall have been given therefor; and the cellaring or warehousing of such goods will be at the owner's risk and expense; as will also be the removal of goods from the sender's premises to the cart, wagon, or premises appertaining to the Railways. Law 9, 1882.

24. No person shall carry upon any such Railways any aquafortis, oil of vitriol, gunpowder, lucifer matches, explosive substances, or any other goods which in the judgment of the General Manager may be considered of a dangerous nature, or be entitled to require the Government to carry upon such Railways any article which in the judgment of the General Manager shall be of a dangerous nature, or so bulky that it would be unsafe for the Railways to convey the same; and if any person shall carry upon such Railways any dangerous article, or shall deliver any such article for the purpose of being carried upon such Railways, without distinctly marking its nature on the outside of the package containing the same, and likewise giving notice in writing of the nature thereof to the bookkeeper, or other Railway official to whom the same shall be delivered for the purpose of being so carried, he shall be liable to a fine not exceeding Twenty Pounds for every such offence, and it shall be lawful for the General Manager to refuse to carry any luggage or parcel that he may suspect to contain articles of a dangerous nature, and to require the same to be opened to ascertain the fact previously to carrying the same, and in case any such luggage or parcel shall be received by the Railway officials for the purpose of being carried on the Railways, it shall be lawful for the General Manager to stop the transit thereof until they shall be satisfied as to the nature of the contents of the luggage or parcel. Carriage of goods of dangerous nature.

25. No person afflicted with small-pox or other contagious disease will be permitted to travel by Railway; nor shall any lunatic, whether in charge of a keeper or not, be permitted to travel in the same carriage or compartment with passengers; and if any person whilst travelling be discovered to be so afflicted, it shall be lawful for any Railway official to remove him from the carriage and from the Railway premises at the first opportunity. Persons afflicted with contagious disease not to travel.

26. Any person who shall wilfully obstruct or impede any Railway official or any servant or agents in the discharge of their duty on such Railways, or any of the works, stations, or premises connected therewith, shall be liable to a fine not exceeding Five Pounds. Obstruction of official in discharge of duty.

27. Any persons who shall remove any stakes or pegs, or other marks placed by any Railway official, or by any surveyor, or his servants or agents along any of the lines of Railway or any other line which may be hereafter undertaken with the sanction of the Government, or contiguous thereto, for the purpose of setting out, tracing, or showing such line, shall be liable to a fine not exceeding Five Pounds. Removing stakes, pegs, or marks.

28. Any person who shall trespass upon any Railway, or upon any of the lands, stations, or other premises appertaining to the Railways, shall be liable to a fine not exceeding Two Pounds, and if any such person shall refuse to leave such Railways or premises on being requested to do so by any Railway official, or by any other person on his behalf, he shall be liable to a fine not exceeding Five Pounds, and may be immediately removed from such Railways or premises by such officer or other person as aforesaid. Trespass.

29. Any person who shall unlawfully and wilfully remove or deface the number plates, or remove or extinguish any lamp on any carriage belonging to any such Railways, or shall wilfully imitate any Railway signal, or shall wilfully or negligently damage or injure any carriage, engine, wagon, truck, warehouse, building, machine, fence, or any other Wilful injuries to property.

Law 9, 1882. matter or thing belonging to such Railways, shall be liable to a fine not exceeding Twenty Pounds, and in addition to this penalty shall be made to defray the cost of repairing the damage or injury he has caused to the Railway property.

Opening gates when train approaching.

30. If any person for whose use and accommodation any gate shall have been set up by any Railway official on either side of such Railways, or any other person, shall open such gate, or pass or attempt to pass, or drive or attempt to drive any cattle, carriage, or other animal or thing across the said Railway at a time when any engine or train approaching along the same line shall be in sight, or shall at any time omit to shut and fasten such gate as soon as he and any such cattle, carriage, or other animal or thing under his charge shall have passed through the same, he shall be liable to a fine not exceeding Ten Pounds.

Wilful acts endangering safety of passengers.

31. If any person shall wilfully and maliciously put, place, cast, or throw upon or across the Railways any wood, stone, or matter or thing, or shall wilfully and maliciously take up, remove, or displace any rail, sleeper, or matter or thing belonging to the Railways, or shall wilfully and maliciously turn, move, or divert any points or other machinery belonging to the Railways, or shall wilfully and maliciously make or show, hide or remove any signal or light upon or near the Railways, or shall wilfully or maliciously do or cause to be done any other matter or thing with intent in any of the cases aforesaid to upset, obstruct, overthrow, injure, or destroy any engine, tender, carriage or truck used upon the Railways, or to endanger the safety of any persons travelling or being upon the Railways, or cast, throw, or cause to fall or strike against, into, or upon any engine, tender, carriage or truck, used upon the Railways, any wood, stone, or other matter or thing with intent to endanger the safety of any person being in or upon such engine, tender, carriage or truck, every such offender shall be guilty of an offence, and being convicted thereof shall be liable, at the discretion of the Court, to corporal punishment not exceeding fifty lashes, or fine not exceeding One Hundred Pounds, or imprisonment with or without hard labour for any period not exceeding ten years, or to any one or more of these punishments.

Penalty for acts or omissions endangering safety of passengers.

32. Whoever shall wilfully do any act, or shall wilfully omit to do what he is legally bound to do, intending by such act or omission to cause, or knowing that he is thereby likely to cause, the safety of any person travelling or being upon any such Railways to be endangered, shall be liable to corporal punishment not exceeding twenty lashes, or fine not exceeding Twenty Pounds, or to imprisonment with or without hard labour for any period not exceeding three years, or to any one or more of these punishments.

Penalty on railway officials for acts endangering safety of travellers.

33. If any Railway official shall wilfully do any act which he is legally prohibited from doing, or shall wilfully or negligently omit to do what he is legally bound to do, and if in consequence of such act or omission the safety of any person travelling or being upon such Railways shall be endangered, such official shall be liable to be imprisoned, with or without hard labour, for any term not exceeding three years, or to fine not exceeding One Hundred Pounds, or to both.

Drunkenness and neglect of duty by officials.

34. Any Railway official who shall be in a state of intoxication whilst actually employed upon the Railways, or any of the works connected therewith, in the discharge of any duty, and any Railway official who negligently shall omit to perform his duty, or shall perform the same in an improper manner, shall be liable to a fine not exceeding Five Pounds; and if the duty in any of the cases in this Section above mentioned be such that the omission or negligent performance thereof would be likely to endanger the safety of any person travelling or being upon such Railways, such official shall on conviction be liable to

imprisonment, with or without hard labour, for a term not exceeding three years, or to fine not exceeding Twenty Pounds, or to both. Law 9, 1882.

35. If any person shall rashly or negligently, and without lawful excuse, do any act which shall be likely to endanger his own safety, or that of any person travelling or being upon such Railway, he shall upon conviction be liable to imprisonment, with or without hard labour, for a term not exceeding six months, or to a fine not exceeding Ten Pounds, or to both. Rash or negligent acts endangering safety of travellers.

36. If any person shall wilfully do any act contrary to the provisions of the Rules sanctioned by the Governor in Council, and duly promulgated as already provided, he shall be guilty of an offence, and be liable on conviction to a fine not exceeding Ten Pounds. Penalty for infringement of rules.

37. And whereas many of the offences declared punishable by this Law may be committed by children, whom it would not be expedient to punish in manner herein provided: It is therefore enacted that it shall be competent for any Resident Magistrate, before whom any child shall be convicted of any offence, to order the moderate chastisement of such child, with a birch or other rod, to be inflicted in the presence of the Magistrate in a private room, instead of subjecting him to the other punishment prescribed by this Law, and such chastisement shall be inflicted immediately, if the Resident Magistrate shall so direct. Offences by children.

38. Every person who shall be guilty of any offence mentioned in this Law may be lawfully apprehended, without any warrant or written authority, by any Railway official or by any other person whom such Railway official shall call to his aid, or by any police officer, and every person so apprehended shall with all convenient dispatch be carried and conveyed before a Resident Magistrate or a Justice of the Peace, or other officer lawfully authorised to punish the offender or commit him for trial. Offenders, how and by whom to be apprehended.

39. In the construction of this Law every Railway official shall be deemed to be legally bound to do everything necessary for or conducive to the safety of the public which he shall be required to do by this Law, or by any Rule or Regulation which shall be made by the Government, and of which Rule or Regulation such official shall have notice, and every such official shall be deemed to be legally prohibited from doing every act which shall be likely to cause danger, and which by any such Rule or Regulation he shall be prohibited from doing; and every person employed by or on behalf of such Railways to do any act upon the Railways shall be deemed to be an official of the Railways. Rules for construction of this Law.

40. For the purposes of this Law the Resident Magistrates of the Colony of Natal shall respectively have jurisdiction over all offences, acts, matters, and things hereby made cognisable by Resident Magistrates, although such Resident Magistrates may otherwise have no jurisdiction in the place where the offence was committed, or where the act, matter, or thing took place. Jurisdiction of Magistrates.

41. And whereas the punishments assigned to certain offences under this Law are beyond the jurisdiction of Resident Magistrates, but it would be frequently more advantageous that such offences should be brought for trial before the Courts of such Resident Magistrates, in order that the punishment of offenders may be more prompt, even though it should be less severe: It is therefore enacted that in case of any person committing any offence under this Law, and which offence would not otherwise be cognisable by a Resident Magistrate, by reason of the punishment to which the same is subject, a certificate may be presented to any Resident Magistrate, signed by the Attorney-General, to the effect that such officer is content that such offence or act shall be prosecuted before the Court of such Resident Magistrate, and in Offences beyond jurisdiction of Magistrates may be made cognizable by them on certificate from Attorney General.

Law 9, 1882. such case it shall be competent to such Resident Magistrate to take cognisance of such offence or act, and to award in respect thereof so much of the punishment assigned thereto as he is empowered under the Laws defining the powers and jurisdiction of Resident Magistrates so to do: Provided that no offender shall be deprived of the right competent to defendant or prisoner under Clause 5 of Law 16, 1861.

Payment of fare of passenger refusing to produce ticket, how enforced.

42. The payment of any fare to which any passenger not producing or delivering up his ticket shall be liable under Section 12 (A) of this Law may be enforced in the same manner as any fine imposed by this Law.

Copy of this Law and of Rules, &c., to be exhibited at every station.

43. A copy of this Law, and of the Rules and Regulations, Timetables, and Tariff of Charges, which shall from time to time be duly made and published, shall be exhibited in some conspicuous place at each station of the Railways, so that they may be easily seen and read, and all such documents shall be so exhibited in English, and in such other language, if any, as shall be required by order of the Government.

Injuries to notices, documents, &c.

44. Any person who shall remove, deface, or in any way injure any document exhibited by the Railway authorities in pursuance of the provisions of this Law, or any notice or document posted by them at the station, or anywhere along the line, shall be guilty of an offence, and be liable to a fine not exceeding Five Pounds, or to imprisonment, with or without hard labour, for a period not exceeding three months.

Appropriation of fines.

45. All fines accruing under this Law, or under any Bye-law made under this Law, and all moneys accruing from the sale or lease of lands which may have been acquired for the uses of the Railway, shall be paid into the Colonial Treasury, and be dealt with as part of the revenue of the Government.

Imprisonment of offenders.

46. Any Resident Magistrate may order any offender convicted of contravening any of the provisions of this Law, or of any Bye-law made under this Law, and for which a money penalty alone is provided, unless he shall upon demand give satisfactory and sufficient security for payment of said fine or penalty so imposed, to be committed to gaol for any term not exceeding three months, with or without hard labour, unless such fine be sooner paid.

Commencement

47. This Law shall commence and take effect from and after the 31st day of December, 1882, and shall continue in operation until the 31st day of December, 1884, inclusive (B).

Law No. 25, 1887.

To empower the Governor to make, maintain, and equip certain Extensions of the Main Line of Railway in the Colony of Natal."

[25th February, 1887.]

WHEREAS it is expedient that the Railway hereafter described or referred to should be constructed as speedily as may be:

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

Short title.

1. This Law may be cited for all purposes as the "Natal Government Railway Extension Law, 1887."

(A) This appears to be a reference to the provisions of sec. 11, not 12.

(B) See Act 2, 1900, post, continuing the operation of this Law until the 31st December, 1901.

2. The Governor of Natal shall be a Corporation for the purposes only of this Law, and for those purposes shall be entitled and competent to take, hold, and dispose of lands and other property. Law 25, 1887.
Governor to be a Corporation for purposes of this Law.
3. The "Lands Clauses Consolidation Law, 1872," is, except when expressly varied by this Law, incorporated with and forms part of this Law. Law 16, 1872, incorporated herewith.
Line of Railway.
4. The Railway Extension hereby authorised lies between Ladysmith and Sunday's River, and the exact line of Railway may be determined by the Governor in Council: Provided that no entry shall be made on private lands without 30 days' notice to the proprietor thereof.
5. All powers given to the Governor by Law No. 1 of 1881 shall be deemed to be given by this Law to the Governor, just as if the words "near to Sunday's River" were contained in the 6th Clause of Law No. 1 of 1881, in place of the words "in or near to the Town of Ladysmith" in such clause contained. Powers given to Governor by Law 1, 1881, to be deemed given by this Law.
6. The Railway construction hereby authorised may be constructed by contracts or departmentally, or partly in one way and partly in the other. Construction of Railway.
7. The Railway shall be constructed as a single line, with a gauge of 3 feet 6 inches, but with double line at such place or places as to the Governor may appear expedient. Gauge.
8. Clause 10 of Law 1 of 1881 shall apply to lands required for the Railway Extension hereby authorised, as if the said clause were introduced into this Law as a clause thereof, and included the Town Lands of Ladysmith in the proviso contained in that clause. Application of sec. 10, Law 1, 1881, to lands required for extension.
9. Law 1 of 1881 shall be construed jointly with these presents, just as if the Railways by that Law authorised were extended and limited to Sunday's River instead of Ladysmith. Law 1, 1881, to be construed with this Law.
10. This Law shall commence and take effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (A). Commencement

Law No. 5, 1888.

"To empower the Governor to make, maintain, and equip certain Extensions of the Main Line of Railway in the Colony of Natal."

[20th April, 1888.]

WHEREAS it is expedient that the Railways hereinafter described should be constructed as speedily as may be:

AND WHEREAS it is expedient that the Governor should be empowered to construct, either departmentally or by a contract or contracts, or in both of such ways, certain Extensions of the Main Lines of Railway in two directions towards the boundaries of this Colony, that is to say, from Sunday's River to a point at or near Coldstream, and from Ladysmith to a point at or near the boundary between this Colony and the Orange Free State, in the Drakensberg Mountains, or any part of either of such Extensions of the Railway:

AND WHEREAS it is expedient that the Governor should be empowered to enter into a contract or contracts for the supply of all permanent way materials required for the said Extensions of the Main Line of Railway; and to provide, either by contract or departmentally, all Station works and Telegraph required for the said Extensions of the Main Line; and also to maintain, equip, and work the said

(A) March 8, 1887.

Law 5, 1888. Extensions of the Main Line of Railway; and that certain powers and authorities should be conferred on the Governor in relation to the construction, maintenance, equipment, and working of the same Railway:

AND WHEREAS certain plans, showing generally the directions and routes of the said proposed Railways, have, before the passing of this Law, been deposited at the office of the Clerk of the Legislative Council:

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

Short title.

1. This Law may be cited for all purposes as "The Railway Extensions Law, 1888."

Interpretation clause.

2. In this Law the expression "The Governor" means and includes the Governor or other officer administering the Government of Natal for the time being; and the expression "the Railway" means the lines of railway by this Law authorised to be constructed.

Governor and his successors incorporated.

3. The Governor and his successors shall be a Corporation for the purposes only of this Law, and for those purposes 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," is, except when expressly varied by this Law, incorporated with and forms part of this Law.

Governor empowered to make and maintain Railways, and to take lands.

5. The Governor may make and maintain in the lines according to the deposited plans, 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.

Description of Railways.

6. The Railway authorised by this Law is as under:—

1st. A line of Railway commencing by a junction with the existing line of Railway at or near to Sunday's River, and terminating at a point at or near the boundary of this Colony upon or near the farm Coldstream, in the County of Klip River.

2nd. A line of Railway commencing by a junction with the existing line of Railway at the town of Ladysmith, and terminating at a point at or near the boundary between this Colony and the Orange Free State, in the Drakensberg Mountains.

Railway may be constructed either 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 to be most expedient.

Railways may be constructed simultaneously or otherwise, and may be discontinued at any time.

8. It shall be lawful for the Governor, with the advice of the Executive Council, to construct both the aforesaid lines of Railway simultaneously or otherwise, and, at any time at which he may see fit, to discontinue the construction of either or both the said lines of Railway, and at any time thereafter to recommence and continue the construction of either or both of the said lines: and further it shall be lawful for the Governor, with the advice of the Executive Council,

to construct whichever of the said two lines of Railway he shall deem it expedient to construct, and not to construct the other, or to postpone its construction for any period. Law 5, 1888.

9. For the purposes 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:— Governor empowered to enter into contract or contracts for the execution of the necessary 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. Proviso.

10. The Railways shall be constructed as single lines 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 Railways as he may think expedient. Railways, how to be constructed.

11. The Railways 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 Railways or any part thereof shall be made be deemed to be roads 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 Railways (A), and the proprietor, lessee, or other holder of such land so taken for Railway purposes shall, when called upon so to do, duly transfer to the Colonial Government for the purposes of the Railway, and for that purpose shall sign and execute all such deeds and documents as may be requisite and necessary to transfer all his right, title, estate, and interest in and to the said land and the dominion thereof, and such transfer, in accordance with the formalities required by Law and the practice affecting the registration of deeds in the Office for the registry of Deeds, shall in all respects be passed and executed by and at the cost of the Government, and in the event of the said land, or any right, title, or interest therein being mortgaged or hypothecated, the consent of the mortgagee to such transfer shall in no case be requisite or necessary, and the land so transferred and all right, title, estate, and interest therein shall be vested in the Colonial Government absolutely free and unencumbered: Railways to be deemed public roads.

Provided that such portions of the Town Lands of the Townships of Ladysmith and Newcastle as are not now alienated shall be deemed for the purposes of this Law 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 Government. Transfer of land shall be given when required.

Proviso.

(A) See *Meek v. Colonial Government*, 13 N.L.R. 271.

Law 5, 1888.

Governor may employ engineers and others.

12. 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 the Legislative Council.

Governor may provide materials, plant, &c.

13. 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, plant, &c., to be admitted into the Colony free of duty.

14. 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.

General powers of the Governor.

15. The Governor may, on behalf of the Colony, make, enter into, and perform all such contracts, and generally may do, or authorise to be done, all such acts and things as he may think necessary or expedient for carrying into effect the purpose of this Law. If the Railway be not constructed departmentally, any contract or contracts so made and entered into shall be subject to the confirmation thereof by the Legislature of Natal. In the event of such confirmation not being given within six calendar months from the date thereof, then at the expiration of such six months everything therein contained shall be void, and of no effect. Notice in writing of confirmation having been given or withheld, as the case may be, shall be given to the contractor or contractors as soon as may be.

Contracts to be subject to the confirmation of the Legislature.

Railways to be exempt from public rates and taxes.

16. 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.

Governor may appoint persons to carry out this Law, and may delegate powers.

17. 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 purpose of this Law, 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.

Governor not to be personally liable.

18. The Governor shall not be personally liable for any loss or damage arising from or caused by anything done under the authority of this Law.

Commencement

19. This Law shall commence and take effect from and after the date of the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (A).

Law No 12, 1889.

"To authorise the Governor of Natal to enter into and conclude a Convention with the Orange Free State for the Construction of a Railway."

[8th July, 1889.]

WHEREAS it is expedient to empower the Governor of Natal to enter into a Convention with the Orange Free State for the construction of a Line of Railway within the said Orange Free State:

(A) April 24, 1888.

BE IT THEREFORE ENACTED by the Administrator of the Government of Natal, with the advice and consent of the Legislative Council thereof, as follows :—

Law 12, 1889.

1. The Governor of Natal is hereby authorised to enter into and conclude a Convention or Agreement with the Orange Free State for the construction, equipment, working, and maintenance of a line of Railway within the Orange Free State, from a point commencing by a junction with a Natal line of Railway at or near to Van Reenen's Pass, and terminating at the town of Harrismith.

Governor authorised to enter into Agreement with O.F.S.

2. The said Convention or Agreement shall contain such terms, conditions, and stipulations as may be mutually agreed upon between the contracting parties.

Terms of Agreement.

3. The conditions set forth in the Schedule hereunto annexed shall form as near as may be the basis of the terms, conditions, and stipulations to be adopted and enacted in such Convention.

Basis of terms.

SCHEDULE

- (a) The Natal Government undertakes to construct the said Line at its own cost without any guarantee of interest on the part of the Government of the Orange Free State, and is prepared to conform, by a Convention to be entered into between the two Governments, to such conditions as may be mutually agreed upon.
- (b) The Natal Government undertakes to maintain and work the said line at its own risk and expense, and to hand over to the Government of the Orange Free State one-half of the profits derived from the working of the said Line, over and above the cost of working, maintenance, and interest on capital; interest being calculated at a rate not exceeding four per centum (4 per cent.) per annum.
- (c) Whenever the Government of the Orange Free State shall deem it expedient to assume the ownership of the Line, and work and maintain the same at its own risk and expense, the Government of this Colony is prepared to hand over the Line in good condition and repair, on the Government of the Orange Free State paying to the Natal Government the actual cost price of the Line and its equipment: Provided that the Government of the Orange Free State shall not be at liberty to take over part of the Line only.
- (d) The Natal Government consents to the Orange Free State subscribing to such proportion of the loan, required for the construction, as may be mutually agreed to; such amount of the Free State subscription to be taken as a set-off against the cost of the Line in the event of the said Government taking over the Line, as provided for in Section (c) of this tender.
- (e) In the event of the Orange Free State Government taking over such line to maintain and work on its own account, and at its own risk, as provided for in Section (c) of this offer, and should the Free State Government at any time subsequent to such resumption of such Line, deem it expedient again to dispose of such Line either by sale, lease, or concession, the offer of such subsequent sale, lease, or concession shall first be made to the Government of this Colony.
- (f) In the event of this tender being accepted by the Government of the Orange Free State, the Natal Government under-

Schedule.

Law 12, 1889.
Schedule.

takes to have the Line from Van Reenen's Pass to Harrismith open for public traffic within twelve months from the date on which the Line from Ladysmith to Van Reenen's Pass is available for the conveyance of materials.

- (g) The Natal Government undertakes that the tariff for goods and passengers upon this Line shall not exceed the charges which may from time to time be in force on the Natal Government Railways.
- (h) All materials for the construction and equipment of any Railways constructed in the Orange Free State by the Natal Government shall be carried over the Natal Government Railways at the same charges as may, for the time being, be in force for the conveyance of materials for the construction and equipment of Railways within the Colony of Natal. The fares charged for the conveyance over the Natal Government Railways of officers and men, required for such Railways in the Orange Free State, shall not exceed one-half the ordinary passenger fares charged on the Natal Government Railways.

Law No. 28, 1891.

"To empower the Governor to acquire, work, and maintain on behalf of the Colonial Government of Natal the Line of Railway constructed by the Dundee (Natal) Coal Company, Limited."

[3rd September, 1891.]

WHEREAS the Dundee (Natal) Coal Company, Limited, hereinafter called the Company, on the Nineteenth day of March, and Twenty-sixth day of April, 1889, entered into an agreement with the Colonial Government of Natal for the construction by the Company of a Branch Line of Railway from a point of the Main Line of the Natal Government Railways to a point convenient to the Coal Fields and the Township of Dundee:

AND WHEREAS it was in the said agreement provided that at the expiration of three years after the completion of the said Branch Line of Railway, or earlier, at the option of the Colonial Government of Natal, the said Government should, subject to the vote of the Legislative Council, take over the said Branch Line of Railway, upon certain specified terms:

AND WHEREAS it is expedient that the said agreement shall be confirmed by Legislative enactment, subject, however, to the provision herein contained:

AND WHEREAS it is expedient that the Colonial Government of Natal should be empowered to take over and acquire from the Company the said Branch Line of Railway on the First day of July, One Thousand Eight Hundred and Ninety-six:

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

1. The agreement printed in the Schedule to this Law annexed, entered into on the 19th day of March, and the 26th day of April, 1889, between the Colonial Government of Natal, and the Dundee (Natal) Coal Company, Limited, for the construction and completion of a Branch Line of Railway from a point of the Main Line of the Natal Government Railways to a point convenient to the Coal Fields and the Township of Dundee, shall, save as is hereinafter provided, be,

Confirmation of
agreement with
Dundee (Natal)
Coal Co., Ltd.

and the same is hereby confirmed, and the Government is hereby empowered to take over such Branch Line with all its adjuncts, offices, and conveniences, and all lands acquired by the Company and used for and in connection with the said Railway, by paying to the said the Dundee (Natal) Coal Company, Limited, the amount expended by such Company in and about or connected with the construction of the said Branch Line, adjuncts, offices, and conveniences, and the acquisition of lands used for and in connection with the said Railway, to be ascertained in the manner mentioned in such agreement: Provided, however, that the Government of Natal shall not take over or acquire the said Branch Line or pay the purchase price thereof until the First day of July, One Thousand Eight Hundred and Ninety-six.

2. The said Branch Railway, together with the lands, buildings, adjuncts, and other matters and things in the preceding section referred to, shall, as soon as the same shall have been purchased and acquired by the Colonial Government, form a part of the Natal Government Railways, and shall, during the time that it is being worked by agreement with the Natal Government Railways, be deemed to be a part of the general railway system of the Colony, and be within the operation of the Laws regulating the management and working of such Railways.

Law 28, 1891.
Government
empowered to
take over
Branch Line.

Date of
acquisition and
payment.

Branch Railway
thereafter to
form part of
Natal Govern-
ment Railways.

SCHEDULE.

It is Agreed by and between the Government of Natal, hereinafter called "The Government," and the Dundee (Natal) Coal Company, Limited, hereinafter called "The Promoters," as follows:—

1st. The promoters shall acquire, at their own expense, the necessary land, and construct and complete, within a period of Twelve Months from the date hereof, from the point of junction (to be agreed upon) with the Natal Government Railways Main Line, a branch line of the same gauge, strength, and general features as the Natal Government Railways, to a point convenient to the Coal Fields and the Dundee Township, provided that a further extension of time for such completion may be granted upon any sufficient cause thereunto appearing.

2nd. The branch line shall be equipped and constructed with all necessary sidings, buildings, and works, necessary for the operations of the promoters, to the satisfaction of the Chief Engineer of the Natal Government Railways Department, and the permanent way and works shall be maintained at the expense of the promoters for a period of Six Months after such completion. At the end of the said period of Six Months, and afterwards during the term of the agreement, the said Branch Line, works, stations, offices, conveniences, permanent way, &c., shall be maintained by the Natal Government Railway Department.

3rd. Upon such completion to the satisfaction of the Chief Engineer of the Railway Department, the Natal Government shall take over the Line and shall work the same for a period of three years thereafter, providing the necessary staff, locomotive power, rolling-stock, and plant of every kind, and manage and regulate the traffic so as to develop the same just as if the Branch Line formed part of the Natal Government Railway System.

4th. The Government shall, subject to the vote of the Legislative Council, at the expiration of the period of three years, specified in Clause 3, or earlier at the option of the Government, take over the Branch Line with all its adjuncts, offices, and conveniences, by paying to the promoters the amount expended by them in and about or connected with the construction of the said Branch Railway, adjuncts, offices, and conveniences to be ascertained in the manner hereinafter

Schedule.

Law 28, 1891. mentioned: that is to say, the promoters shall, on the completion of
Schedule. the Line, submit to the Government a memorandum showing the particulars of such cost; any item objected to by the Government shall be determined by the Colonial Engineer and some person to be appointed by the promoters, and in the event of difference, by an umpire to be chosen before entering the submission, and in making such decision the Arbitrators or Umpire shall take as a basis the charges for construction and such other items as naturally appertain thereto, which are now charged to the cost of construction of the Natal Government Railways, provided that should the Legislative Council decline to vote the said sum for the purchase of the said Branch Line, the arrangement with respect to the working of the said Branch Line provided in Clauses 3 and 6 shall continue, and shall be terminable on twelve months' notice by either party to the other, given at any time or period.

5th. The rates for conveyance of Coal over the Branch Line to be constructed by the promoters shall never exceed the most favourable rates for similar traffic on any other portion of the Natal Government Railway System.

6th. The Gross Revenue earned by the Branch Line shall be divided between the Government and the promoters in the following proportions:—

Fifty per cent. shall be paid to the Natal Government Railways Working Department as remuneration for working, managing, and maintaining the Branch Line, and the remaining fifty per cent. shall be paid to the promoters.

7th. The promoters, or those standing in their place, shall during the continuance of this Agreement work the said mine in a fair and effectual manner; and, further, all Coal obtained from the said mine so far as practicable shall be conveyed by the Branch Line alone, and by no other means of transport.

8th. Any additional sidings or works necessary to the proper management and working of the Branch Line shall be provided by and at the expense of the Natal Government Railways Department.

9th. The Natal Government will convey over their open lines all materials and stores required for the construction of the Branch Line at the rate of three pence per ton per mile.

10th. The Railway Department will supply to the promoters from their stock of old rails (if circumstances permit) such material as they may require for covering culverts and such like work at the nominal price of twenty shillings per ton, the charge for conveyance being regulated by Clause 9.

11th. The Government will place upon the Estimates for the consideration of the Legislative Council the amount of any duties that may be collected on the importation of materials required for the construction of the Branch Line.

12th. Any Crown Lands required by the promoters for the purposes of this scheme in general width of one hundred feet, will be granted by the Government to the promoters at the rental of one penny per acre per annum.

13th. With a view of securing uniformity in carrying out the work, the following points are to be observed:—

- (a) The general principle of laying out and constructing the Line and the location of the Stations at Dundee shall be subject to the supervision and approval of the Chief Engineer of the Railway Department.
- (b) The Surveyor for the promoters shall make himself acquainted with all necessary details by reference from time to time to the District Engineer at Ladysmith.

(c) Before the final pegging out of the Branch takes place and before the works are commenced, the surveys and the working plans and sections shall be approved by the Chief Engineer of the Railway Department. Law 28, 1891
Schedule.

(d) Indents for materials to be employed in the construction of the Branch Line to be submitted before transmission to the Chief Engineer of the Railway Department, and the promoters to take such measures as will ensure uniformity in the materials supplied with those furnished to the Natal Government for its own Railway construction, especially as regards inspection of materials which it is recommended should be made by the Inspectors employed to perform similar duties on behalf of the Crown Agents.

14th. The provision of sidings to connect the Branch Line with the Collieries will be subject to the printed general conditions dated the Thirteenth day of September, One Thousand Eight Hundred and Eighty-seven, a copy of which is appended hereto.

15th. The Natal Government will give every reasonable facility, convenience, and support to the promoters in carrying out the project.

IN WITNESS whereof the parties hereto have hereunto set their hands on the dates and at the places hereinafter mentioned.

SIGNED at Pietermaritzburg, on this the Nineteenth day of March, One Thousand Eight Hundred and Eighty-nine, by Albert Henry Hime in his capacity as the Acting Colonial Secretary of the Colony of Natal, and as such acting for and on behalf of the Colonial Government of Natal.

(Signed) A. H. HIME,
Acting Colonial Secretary of Natal.

As Witnesses:

(Signed) C. BIRD, A.C.S.
(Signed) H. T. HARRISON.

SIGNED at Durban, on this the Twenty-sixth day of April, One Thousand Eight Hundred and Eighty-nine, by Benjamin Wesley Greenacre, Chairman, Duncan MacColl, Director, John Walter Leuchars, Director, and John Livingston, Secretary, of the Dundee (Natal) Coal Company (Limited).

(Signed) B. W. GREENACRE, Chairman.
(Signed) DUNCAN MACCOLL, Director.
(Signed) J. W. LEUCHARS, "
(Signed) JNO. LIVINGSTON, Secretary.

As Witnesses:

(Signed) E. CARMONT.
" F. MACKILLICAN.
" G. A. TURRELL.
" F. MACKILLICAN.

Act No. 10, 1894.

"To legalise the Line of Railway known as the Durban Deviation."

[5th July, 1894.]

WHEREAS in or about the years 1876 and 1877 a certain line of Railway, known as the Natal Government Railway, was constructed according to the provisions contained in Law No. 4, 1875:

Act 10, 1894.

AND WHEREAS the course of the said line of Railway hath recently been diverted, and a line of Railway known as the Durban Deviation, and hereinafter more particularly described, hath been constructed within the Borough of Durban, and is now being used and worked as a part of the Natal Government Railways:

AND WHEREAS doubts have arisen as to the legality of the construction, use, and working of the said Durban Deviation, and it is desirable to declare the legality thereof:

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:—

Interpretation.

1. In this Act the expression Durban Deviation means the line of Railway recently constructed within the Borough of Durban, commencing at the Main Station in Durban and ending at the point of junction between the deviation and the original line of Railway at the west end of the Town of Durban, and includes all lands taken or acquired for and in connection with the said line of Railway, and all stations, sidings, and works constructed on such lands.

Durban Deviation to be deemed a part of the main line of Railway under Law 4, 1875.

2. The Durban Deviation shall for all purposes whatever be deemed to be and to have been from the time of its commencement a part of the main line of Railway lawfully constructed according to the provisions and within the intent of Law No. 4, 1875, entitled "Law to empower the Lieutenant Governor to make, maintain, equip, and work certain Railways in the Colony of Natal, and to confirm a provisional contract entered into for the construction of the same," and shall be deemed to be and to have been a part of the Natal Government Railways within the meaning of all laws regulating the management and working of the Natal Government Railways.

Act No. 16, 1894.

"To empower the Governor to make, maintain, and equip a Line of Railway from Isipingo to Umzinto."

[5th July, 1894.]

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, before the passing of this Act, been deposited at the offices of the Clerks of the Legislative Council and Legislative Assembly:

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:—

Short title.

1. This Act may be cited as the Umzinto Railway Extension Act, 1894.

"Railway."

2. In this Act the expression "the Railway" means the line of Railway authorised by this Act.

Governor 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 Law 16, 1872.

4. The Lands Clauses Consolidation Law, 1872, except as varied by this Act, is incorporated with this Act.

Governor authorised to construct the Railway.

5. The Governor may make and maintain in the lines according to the deposited plans, 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.

Act 16, 1894.

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 Isipingo, and terminating at a point at or near the Village of Umzinto.

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 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 such portions of the Town Lands of Government Townships, through which the Railway may pass, as are not now alienated, shall be deemed for the purposes of this Act to be Crown Lands over which the Colonial Government has 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

Governor may employ engineers, &c.

Act 16, 1894. 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.

Materials exempted from Customs duty.

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.

Railway exempted from imposts.

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.

Appointment of persons to carry out the Act.

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.

Personal immunity of Governor.

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.

Act No. 27, 1894.

“To empower the Governor to make, maintain, and equip a line of Railway from Richmond Road Station to Richmond.”

[30th July, 1894.]

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 will be deposited at the offices of the Clerks of the Legislative Council and Legislative Assembly :

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 :—

Short title.

1. This Act may be cited as the Richmond Railway Extension Act, 1894.

Interpretation.

2. In this Act the expression “the Railway” means the line of Railway authorised by this Act.

Governor 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.

Incorporation of Law 16, 1872.

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 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. Act 27, 1894.

6. The Railway authorised by this Act is as under:—

Route of Railway.

A line of Railway commencing by a junction with the existing line of Railway at the Richmond Road Station, and ending at the Village of Richmond.

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 may be 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. Description of Railway.

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, lease, 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 such portions of the Commonage of Richmond 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. 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 Governor may employ engineers, workmen, and others.

- Act 27, 1894.** salaries, wages, or remuneration as may from time to time be voted by Act of Supply.
- Workshops, 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.
- Exemption of materials from Customs duty.** 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.
- Exemption from rates and taxes.** 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.
- Appointment of person to carry Act into effect.** 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.
- Immunity of Governor.** 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.

Act No. 32, 1894.

“To empower the Governor to make, maintain, and equip a certain Extension of the Main Line of Railway from Charlestown to the Border of the South African Republic.”

[30th July, 1894.]

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, before the passing of this Act, been deposited at the offices of the Clerks of the Legislative Council and Legislative Assembly:

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:—

- Short title.** 1. This Act may be cited as the Charlestown Railway Extension Act, 1894.
- Interpretation.** 2. In this Act the expression “the Railway” means the line of Railway authorised by this Act.
- Governor 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.
- Incorporation of Law 16, 1872.** 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 the deposited plans, 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. Act 32, 1894.

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 Charlestown, and terminating at a point at or near to the border of Natal. Route 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. Description of Railway.

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. Provided that such portions of the Town Lands of the Township of Charlestown as are not now alienated 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. 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 Engineers and workmen.

- Act 32, 1894.** salaries, wages, or remuneration as may from time to time be voted by Act of Supply.
- Workshops, 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.
- Exemption from import duty.** 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.
- Exemption from rates and taxes.** 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.
- Appointment of person to carry Act into effect.** 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.
- Immunity of Governor.** 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.

Act No. 33, 1894.

“ To legalise certain payments and other necessary matters in connection with the construction of a Railway in the territory of the South African Republic in terms of an Agreement with the Government of the said Republic, dated 12th February, 1894.”

[30th July, 1894.]

WHEREAS by an Agreement bearing date the Twelfth day of February, 1894, ratified by the Governments of Natal and the South African Republic, it is agreed that the Government of Natal shall construct a certain Railway in the territory of the South African Republic, and it is necessary to provide for the cost of the construction thereof :

AND WHEREAS it is by the said Agreement provided that the cost incurred by the Government of Natal in constructing the said Railway shall be paid to the said Government either in Cash or in Debenture Bonds more fully referred to in the Agreement, and it is necessary to provide for the realisation of any such Debenture Bonds :

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 :—

Authority for payment of cost of constructing Railway.

1. The Governor in Council may from time to time authorise the Colonial Treasurer to pay to the Resident Engineer in charge of the construction of the Railway referred to in the said Agreement, upon his requisition, all sums of money required for constructing the said Railway according to the terms of the said Agreement.

Debenture bonds received in payment may be negotiated or realised.

2. The Colonial Treasurer shall be empowered by himself or by the Agent-General, or other person whom he may thereto authorise to use, negotiate, sell, or convert into money any and all Debenture Bonds which may be received in payment for the cost of constructing the said Railway, at such times and in such manner as may be determined by the Governor in Council, and the proceeds of such Debenture Bonds shall be paid to the General Revenue of the Colony.

Act No. 34, 1894.

“ To provide for the extension of the North Coast Railway Line to the River Tugela.”

[30th July, 1894.]

WHEREAS it is expedient that the Railway hereinafter described should be constructed :

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 :—

1. Law No. 21, 1889, “ The North Coast Railway Extension Law, 1889,” shall be repealed. Repeal.
2. This Act may be cited as the “ Tugela River Railway Act.” Short title.
3. This Act shall commence at such date after the promulgation thereof as the Governor in Council shall fix by Proclamation (A). Commencement
4. The expression “ Railway ” in this Act means the line of Railway hereinafter authorised. Interpretation.
5. The Railway shall commence by a junction at any point of the existing line of Railway to Verulam, and shall follow the route to be shown in plans approved by the Governor in Council, and to be deposited at the offices of the Clerks of the Legislative Council and the Legislative Assembly, to a point on the Tugela River laid down on such plans. Route of Railway.
6. 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.
7. “ The Lands Clauses Consolidation Law, 1872,” is, except as varied by this Act, incorporated with this Act. Incorporation of Law 16, 1872.
8. The Governor may make and maintain in the lines according to the plans, or in such of the lines and with such deviations from the plans as the Governor shall think desirable, while preserving the general direction of the Railway as shown on the same plans, the Railway herein 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 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 authorised.
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 to be most expedient. Construction departmentally or by contract.
10. For the purposes 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

(A) Took effect 15th Dec., 1896. See Pn. in G.G. dated 15th Dec., 1896.

Act 34, 1894.

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.

Description of Railway.

11. 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.

12. 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, lease, 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 unalienated portions of Town Lands granted 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 over which the Government have reserved the right to make roads for the public good by order of Government.

Employment of engineers, &c.

13. 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.

Workshops, plant, &c.

14. 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 import duty.

15. All materials, plant, engines, rolling-stock, and other things imported into the Colony from time to time, for the construction, maintenance, equipment, and working of the Railway, or for any purpose connected therewith, shall be free of import duty.

Exemption from rates and taxes.

16. 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 Act into effect.

17. 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.

Governor's powers may be transferred to a Company.

18. If at any time before the moneys required for the construction of the Railway have been voted by Act of Supply proposal shall be made to the Government by any public company to construct the Railway, then it shall be lawful for the Governor in Council, if satisfied that the company is well able to carry out the construction efficiently,

to transfer to such company all or any of the rights, powers, and authority of the Governor, under this Act. Act 34, 1894.

19. Before receiving transfer of the rights, powers, and authority aforesaid, the company shall enter into an agreement with the Government, with sufficient and approved sureties and on such terms as shall be agreed, for constructing the Railway within a specified time and to the satisfaction of Government, and up to such strength and style of construction as shall be specified, and for the determination of the rights, powers, and authority aforesaid on failure to carry out the construction in terms of the agreement, and such agreement may provide for the working of the said Railway by the Company upon such terms as regards rates of freight and fares, the use and hire of rolling-stock, and all other matters, as may be agreed to (A). Agreement with Company.

20. For the purpose of assisting the Company 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 12 of this Act, and may place such lands at the disposal of the Company for the purpose of constructing the Railway thereon. Assistance to Company.

21. At any time after the Railway shall have been constructed by a Company as aforesaid, the Governor in Council shall, subject to the necessary money being voted by Act of Supply, be empowered to purchase and take the Railway. The purchase shall be effected according to the provisions of Law No. 16, 1872, and the Company or other owners of the Railway shall be required when called upon, and on tender of the purchase price, to sell and hand over the Railway and all stations, lands, telegraphs, works, rolling-stock, plant, property, and things belonging to or held in connection therewith: Provided that the Company shall be entitled to receive twelve months' notice of the intention of the Government to purchase and take over the Railway under the provisions of this Act. Purchase of Railway by Government

22. For the purpose of ascertaining the purchase price of the Railway and other things beforementioned, the Company shall produce fully detailed statements of all Capital Expenditure, up to the date of purchase, such statements to be duly vouched to the satisfaction of the Government, and to be subject in case of dispute to the decision of two arbitrators, one to be appointed by the Government and the other by the Company in the usual manner. The Government shall, when such statements have been finally stated and agreed, pay as the purchase price of the Railway and its appurtenances the sum as shown by the said statements to have been expended by the Company on Capital Account, together with such additional sum as will represent interest, calculated at the rate of four per centum per annum upon the said Capital Expenditure: Provided that if interest shall have been earned by the working of the Railway, then the payment of interest to the Company by the Government, when taking over the Railway, as is hereinbefore provided, shall be reduced "pro tanto" according as the interest earned by the working of the Railway by the Company shall be equal to, or less than, four per centum per annum. Purchase price.

23. The Governor in Council may, in place of transferring the authority to construct the Railway to a Company, employ any such Company to carry out the construction on behalf of the Governor, who may exercise the authority and powers given to him by this Act by means of such Company, and shall be empowered, subject to the necessary money vote, to pay to such Company the agreed price of construction. Governor may exercise powers under this Act by means of a company.

(A) See also Act 14, 1895, post.

Act 34, 1894.
Immunity of
Governor.

24. 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.

When Railway
to be deemed
part of N.G.
Railways.

25. The Railway, when constructed by the Governor, or by a Company on behalf of the Governor as provided in Section 23 of this Act, or when taken over in terms of the 21st Section, shall be deemed to be a part of the Natal Government Railways for all purposes whatsoever.

Act No. 14, 1895.

“To amend the Tugela River Railway Act, 1894.”

[8th August, 1895.]

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:—

Terms which
may be agreed
to in a contract
for the con-
struction of the
Railway.

1. The Agreement referred to in Section 19 of the Tugela River Railway Act, 1894, may provide for:—

- (a) A guarantee by the Colonial Government of interest at the rate of three pounds per centum per annum on the cost of the proposed railway, in so far as the net earnings of the railway may fall short of three per cent. per annum.
- (b) The payment of a bonus additional to the cost in case the Government elect to take over the line prior to the expiry of the period for which it may be agreed that the line shall be owned and worked by the Company.

Act No. 20, 1896.

“To provide for the construction of a Line of Railway from the South Coast Junction to the Bluff.”

[30th June, 1896.]

WHEREAS it is expedient that the Railway hereinafter described should be constructed:

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:—

Short title.

1. This Act may be cited as the “Bluff Railway Act, 1896.”

Meaning of
“Railway.”

2. The expression “Railway” in this Act means the line of Railway hereinafter authorised.

Governor 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.

Incorporation of
Lands Clauses
Law.

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 to be deposited with the Clerk of the Legislative Council and the Clerk of the 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 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. Act 20, 1896.

6. The Railway shall commence by a junction with the existing line of Railway at or near the South Coast Junction and end at the seaward end of the Bluff at Port Natal. Route.

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. Description of Railway.

10. The Railway shall in respect to 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. 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. Employment of 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. Workshops, plant, &c.

Act 20, 1896.

Materials
exempted from
Customs duty.

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.

Exemption from
imposts.

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.

Appointment of
persons to carry
purposes of Act
into effect.

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.

Immunity of
Governor.

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.

Act No. 20, 1897.

“To empower the Governor to make, maintain, and equip a Line of Railway from Pietermaritzburg Station to Greytown.”

[29th May, 1897.]

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 will be deposited at the Offices of the Clerks of the Legislative Council and Legislative Assembly :

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:—

Short title.

1. This Act may be cited as the “Greytown Railway Act, 1897.”

Interpretation.

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 Law.

4. The Lands Clauses Consolidation Law, 1872, except as varied by this Act, is incorporated with this Act.

Governor
authorised to
construct the
Railway.

5. The Governor may make and maintain in the lines according to plans to be 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 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 Pietermaritzburg Station, and ending in or near the Township of Greytown.

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. Act 20, 1897.
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 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. 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.

Act 20, 1897.

Materials
exempted from
Customs duty.

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.

Railway
exempted from
imposts.

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.

Appointment of
persons to carry
out Act.

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.

Personal
immunity of
Governor.

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.

Act No. 21, 1897.

“To empower the Governor to make, maintain, and equip a Line of Railway from Park Rynie Station to Port Shepstone.”

[29th May, 1897.]

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 will be deposited at the Offices of the Clerks of the Legislative Council and Legislative Assembly :

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 :—

Short title.

1. This Act may be cited as the “Port Shepstone Railway Act, 1897.”

Interpretation.

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 Law.

4. The Lands Clauses Consolidation Law, 1872, except as varied by this Act, is incorporated with this Act.

Governor
authorised to
construct the
Railway.

5. The Governor may make and maintain in the lines according to plans to be 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, sittings, 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 at the present terminus of the South Coast Railway Extension, at or near Park Rynie, and ending

on the northern bank of the Umzimkulu River, at or near the Village of Port Shepstone. Act 21, 1897.

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. 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.

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: 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. 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. All materials, plant, engines, rolling-stock, and other things imported into the Colony from time to time, for the construction, Materials exempted from Customs duty.

Act 21, 1897. maintenance, equipment, or working of the Railway, or for any purpose connected therewith, shall be free of import duty.

Railway exempted from imposts.

Appointment of persons to carry into effect purposes of Act.

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.

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.

Immunity of Governor.

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.

Act No. 22, 1897.

“To empower the Governor to make, maintain, and equip a Line of Railway from Park Rynie to Umzinto.”

[29th May, 1897.]

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 will be deposited at the Offices of the Clerks of the Legislative Council and Legislative Assembly :

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:—

Short title.

1. This Act may be cited as the “Umzinto Branch Railway Act, 1897.”

Interpretation.

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 Law.

4. The Lands Clauses Consolidation Law, 1872, except as varied by this Act, is incorporated with this Act.

Governor authorised to construct the Railway.

5. The Governor may make and maintain in the lines according to plans to be 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.

6. The Railway authorised by this Act is as under:—

Description of Railway.

A line of Railway commencing at the present terminus of the South Coast Railway Extension, at or near Park Rynie, and ending in or near the Village of Umzinto.

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. Act 22, 1897.

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 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 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. 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. 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 Railway exempted from imposts.

- Act 22, 1897.** 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 into effect this Act.** 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.
- Immunity of Governor.** 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.

Act No. 35, 1898.

“To empower the Governor to make, maintain, and equip a certain Extension of the Natal Government Railway from Dundee to the Buffalo River.”

[15th August, 1898.]

WHEREAS it is expedient that the Governor of Natal should be empowered to construct a line of Railway from Dundee to the Border of the South African Republic at the Buffalo River:

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:—

- Short title.** 1. This Act may be cited as the “Buffalo River Railway Act, 1898.”
- “Railway.”** 2. The expression “Railway” in this Act means the line of Railway hereinafter authorised.
- Route of Railway.”** 3. The Railway shall commence by a junction with the existing line of Railway at Dundee, and follow the route shown in plans deposited at the offices of the Clerks of the Legislative Council and the Legislative Assembly, to a point on the Buffalo River, to be determined by agreement with the Government of the South African Republic.
- Governor to be Corporation for purposes of Act.** 4. 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 Law.** 5. The Lands Clauses Consolidation Law, 1872, is, except as varied by this Act, incorporated with this Act.
- Authority for construction of Railway.** 6. The Governor may make and maintain in the lines according to the deposited plans, 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 and use of lands.** 7. The bridge required to be constructed over the Buffalo River, with the necessary approaches on either side, may be constructed by the Government in pursuance of any arrangement between the
- Bridge over Buffalo River.**

Government of Natal and the Government of the South African Republic. Act 35, 1898.

8. 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 to be most expedient. Construction departmentally or by contract.

9. For the purposes 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:— What works may be included in 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.

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.

10. 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. Description of Railway line.

11. 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: Provided that such portions of the Town Lands of the Township of Dundee as are not now alienated 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. Railway to be deemed a public road.

12. 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. Employment of engineers and others.

13. 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.

14. All materials, plant, engines, rolling-stock, and other things imported into the Colony from time to time, for the construction, maintenance, equipment, and working of the Railway, or for any purpose connected therewith, shall be free of import duty. Exemption from import duty.

Act 35, 1898.
Exemption from
taxes.

15. 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
Act into effect.

16. 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.

Indemnity to
Governor.

17. 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. 2, 1899.

“For the appropriation of a sum of money for the Construction of the Umzinto Branch Railway.”

[30th June, 1899.]

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. There shall be appropriated out of the sum of Five Hundred Thousand Pounds (£500,000) Sterling, mentioned in Section 4 of Act No. 7, 1898, a sum not exceeding Thirty-five Thousand Pounds (£35,000) Sterling, to be expended on the construction of the line of Railway authorised by the “Umzinto Branch Railway Act, 1897.”

Act No. 10, 1899.

“To empower the Governor to acquire land for open Railways, and to take and lead water required for Railway purposes.”

[17th July, 1899.]

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:—

Governor em-
powered to take
land.

1. The Governor may purchase and take any land required for any open line of railway now or hereafter to be worked by the Natal Government Railways whether for station purposes or for deviations or for any other purpose.

Law 16, 1872.

2. The Lands Clauses Consolidation Law, 1872, except as is otherwise provided, shall be incorporated with this Act.

Governor a
Corporation.

The Governor shall be a Corporation for the purposes of this Act, and shall hold and exercise all the powers and privileges of a Company under the said Law of 1872.

Mode of
estimating
compensation.

3. In arriving at the price or compensation to be paid in respect of the taking of land under this Act there shall be taken into account—

- (a) The damage to be caused by the severance of the lands of the owner, or by any other cause injuriously affecting the same and arising out of the exercise of the powers given by this Act;
- (b) The benefit and advantage to be derived by the owner from the works proposed to be carried out on such lands.

4. None of the provisions of the Lands Clauses Consolidation Law, 1872, requiring a deposit to be lodged with the Master of the Supreme Court, shall apply to the acquisition of land required for any line of railway now or hereafter to be constructed by the Colonial Government or worked by the Natal Government Railways. Act 10, 1899.
Exclusion of Government from certain provisions of Law 16, 1872.

5. The provisions of this Act shall likewise apply to the acquisition of the right to take or use any water required for the purposes of any railway constructed by the Colonial Government or worked by the Natal Government Railways, and to the right to catch and collect water, to construct dams, weirs, and other works, to sink wells or shafts, to enclose and fence any water or waterworks, to lead and convey water over and through any lands in furrows, or by pipes or otherwise, and generally for all necessary purposes for securing a sufficient supply of water. The provisions of this Clause shall not apply to Municipalities constituted under Law No. 19, 1872, or to Townships constituted under Law No. 11, 1881, and any Laws or Acts amending the same (A). Taking and user of water for Railways.

6. If the taking and using of water, by virtue of the powers conferred by this Act, shall injuriously affect any person through whose land the water passes, or who has, up to the time of the taking of the water, had the right to use the same, such person shall be entitled to compensation in terms of this Act. Compensation.

Act No. 40, 1899.

“To authorise the Construction of a Railway from Stanger to Kearsney.”

[11th September, 1899.]

WHEREAS J. L. Hulett & 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 adjoining the Railway line of the Natal-Zululand Railway, Limited, on the Town Lands of the Township of Stanger, in the County of Victoria aforesaid, to a point on, or near, Kearsney Estate in the said County, to be worked by means of steam or other motive power, other than electricity:

AND WHEREAS it is expedient to authorise the said J. L. Hulett & Sons, Limited, to construct such Railway:

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:—

1. This Act may be cited for all purposes as “The Stanger and Kearsney Railway Act, 1899.” Short title.

2. The said J. L. Hulett & 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. Company authorised to carry on, complete, and maintain Railway.

3. The Company shall be and they are hereby authorised and empowered 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 or other motive power other than electricity, from a point adjoining the line of Railway Description of authorised Railway.

(A) See *Colonial Government v. P.M.Burg Corporation*, 21 N.L.R. 287.

Act 40, 1899. of the Natal-Zululand Railway, Limited, on the Town Lands of the Township of Stanger, County of Victoria aforesaid, to a point on or near Kearsney Estate, 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 lands. 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, namely:—

- (a) The Town Lands of Stanger;
- (b) Lots 13, 14, and 19;
- (c) Lots 22, 32, and 28; and
- (d) Kirkly Vale, 20;

being lands situate and lying between the Rivers Umvoti and Nonoti, within the Lower Tugela Division of the said County of Victoria; and to erect thereon all buildings, sidings, crossings, railway, telegraph, and the like required in connection with the said Railway. The Company may agree with the Colonial Government for the use of any land forming part of the premises of the North Coast Railway.

Gauge. 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.

Level crossings for roads, &c. 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:—

- (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 done on the part of the Railway system of Natal between Verulam and the River Tugela.

Construction and maintenance of level crossings, fences, &c. 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 person whom he may authorise, to enter upon the Railway and 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.

Damage to roads. 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.

Determination of differences as to crossings, fences, &c. 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.

Works to be done by Company for accommodation of adjoining owners. 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:—

- (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; Act 40, 1899.
- (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 done on that part of the Railway system of Natal between Verulam and the River Tugela.

11. If any difference shall arise respecting any matter provided for in the preceding section it shall be determined by arbitration. Arbitration.

12. The said Railway 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. Opening for traffic.

13. The Company may 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. Fares.

14. The Company may use on the Railway, 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 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. Flanged wheels.

15. The cars, carriages, trucks, or other vehicles, used on the said Railway may be propelled by animal, steam, or other motive power, other than electricity. Motive power.

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. Liability for damages.

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 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 such 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. Prosecutions.

Act 40, 1899.
Incorporation
of Law 16, 1872.

Power of
purchase by
Government.

Terms of
purchase.

Regulations for
public safety.

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.

20. 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.

21. 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); and
- (b) That there shall be added to the value ascertained as aforesaid, an amount as interest equal to five per cent. per annum on the capital expended if the works be purchased before completion, or within five years after completion, and if purchased at any time thereafter, an amount equal to ten per centum on the value ascertained as aforesaid.

22. The Governor in Council may from time to time make such regulations as may be expedient for securing the safety of the public from personal injury.

Act No. 2, 1900.

"To continue 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.'"

[23rd June, 1900.]

WHEREAS by Act No. 15, 1899, provision is made for the continuance in force and operation until the 31st day of December, 1900, of the Law No. 9, 1882:

AND WHEREAS the said Act No. 15, 1899, will expire on the 31st day of December, 1900:

AND WHEREAS it is expedient that the said Law No. 9, 1882, should be continued in force and operation until the 31st day of December, 1901:

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:—

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, 1900, until the 31st day of December, 1901.

2. The words "Natal Government Railways," whenever 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.

Continuation of
Law 9, 1882.

Meaning of
words "Natal
Government
Railways."

RAPE.

See CRIMINAL LAW"]

REGISTRAR OF DEEDS.

[See "REGISTRATION (DEEDS)."]

REGISTRATION (BIRTHS, &c.)

[See as to Indians, Law 25, 1891, s. 61, tit. "IMMIGRATION (INDIAN)"; also "INTESTATE ESTATES."]

Law No. 16, 1867 (A).

"For the Registration of Marriages, Births, and Deaths within the Colony of Natal."

[4th October, 1867.]

WHEREAS it is expedient to provide for the registration of marriages, births, and deaths within this Colony:

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

1 It shall be lawful for the Lieutenant Governor to appoint one Registrar-General, and so many registrars of births and deaths under this Law, as shall be necessary for the purposes thereof, and from time to time to remove any person so appointed.

Governor may appoint Registrar General.

2. It shall be lawful for the Lieutenant Governor to appoint a fit person to be the deputy of any registrar, to act in case of death, illness, or unavoidable absence; and every deputy shall during the time he shall so act, have all the powers and privileges and perform all the duties and be subject to all the responsibilities of the registrar for whom he shall have been appointed deputy; and every such appointment, when made, shall be notified in the "NATAL GOVERNMENT GAZETTE."

Deputy Registrars may be appointed.

3. Each county and division of the Colony shall be a registration district: Provided always, that the Lieutenant Governor may at any time issue a proclamation dividing the Colony, or any portion of it, into other districts, for the purposes of this Law, or altering the boundaries of districts as from time to time he may think requisite; and all births and deaths shall be registered in the district in which they respectively occur: Provided always, that it shall be lawful for the registrars of any district to register any birth or death according to the provisions of this Law, if it shall be shown to his satisfaction that the person upon whom it is obligatory to give the information required herein could not, without considerable difficulty, delay, or expense, attend at the office of any of the registrars of the district in which the birth or death has actually taken place.

Registration districts.

Where births and deaths to be registered.

4. It shall be lawful for the Lieutenant Governor, with the advice of his Executive Council, from time to time to make, amend, and abolish rules and regulations, not being repugnant to the provisions

Rules.

(A) See Act 38, 1899, s. 3, tit. "INTESTATE ESTATES," which repeals so much of this Law as is in conflict therewith; and

sec. 4 of the same Act provides that this Law, Act 17, 1894, and Part II. of Act 38, 1899, are to be construed together.

Law 16, 1867. of this Law, for the general management of the registry offices and the preparation and transmission of all returns required from registrars.

Registrars shall inform themselves of the circumstances of births and deaths, and register without fee.

5. Every registrar shall in every case inform himself carefully of all the particulars required to be registered by him respecting births and deaths under this Law, or under any other Law for the time being in force; and shall, without fee or reward, except when otherwise specially provided by law, enter and register all such particulars according to the forms in Schedules B and C hereunto annexed in cases of births and deaths respectively, or as near thereto as in the circumstances of each case may be applicable; and every such entry shall be made from page to page from the beginning to the end of the book; and every such book shall be paged consecutively.

Quarterly returns to Registrar General.

6. Every registrar shall, in the months of January, April, July, and October in each year make and transmit to the Registrar-General true copies, certified under his hand, of all entries of births and deaths (A) made in the register books in his office during the three months next preceding; or a certificate under his hand that there have been no such entries, as the case may be.

When new-born child or dead body found, information must be given to Registrar.

7. In case any new born child or dead body shall be found exposed, a constable within the district shall forthwith inform the registrar thereof, and of the place where such child or dead body was found; and where an investigation shall be made by any Resident Magistrate or Justice of the Peace respecting any dead body, such Resident Magistrate or Justice of the Peace shall notify the result of the same to a registrar of the district, with all other particulars required to be registered concerning the death; and such registrar shall make the entry into his register book accordingly; and the same shall be signed by the Resident Magistrate or Justice of the Peace by whom the information has been given.

Information of a birth or death to be given within thirty days, by parent in case of a birth: or occupier of a house, in case of a death.

8. In each case of a child born within the Colony, the father, mother, or some person acting on behalf of the parent, and becoming responsible under the provisions and penalties of this Law for the truth of the particulars, shall within thirty days (inclusive of the day of the birth), and in case of the death of any person, the occupier of the house or tenement, or some person present at the death or in attendance during the last illness of any one dying in the Colony, or some person acting on behalf of the occupier of the house or place in which the death shall have occurred, and becoming responsible under the provisions and penalties of this Law for the truth of the particulars, shall, within thirty days (inclusive of the day of the death), inform the registrars of the particulars required to be registered concerning such birth or death.

Who considered occupiers of houses.

9. For the purposes of this Law the master, matron, keeper, chief officer, or other person in actual charge of any gaol, prison, hospital, or public or private charitable institution respectively shall be deemed the occupier thereof.

Births may be registered within six months on solemn declaration of parent.

10. After the said period of thirty days following the birth of any child born in the Colony, it shall not be lawful for the registrar to register such birth, unless the parent who was present at such birth shall make a solemn declaration, according to the best of his or her knowledge and belief, of the particulars required to be registered; and upon such declaration being made, it shall be lawful for the registrar before whom such declaration is made to register the birth according to the information of the person making the same (B).

(A) So much of this sec. as relates to deaths is repealed by Act 38, 1899, tit.

"INTESTATE ESTATES."

(B) See Act 17, 1894, s. 6, post.

11. In every case of the arrival in the Colony of a child under the age of eighteen months at the time of such arrival, born at sea or in any place out of the Colony, whose parents or other persons having the lawful charge of such child are about to take up their abode in the Colony, it shall be lawful for the registrar at any time within six months next following the day of such child's arrival, on a solemn declaration by one of the parents, or by a person having lawful charge as aforesaid of such child, of the particulars required to be registered, to register the birth of such child according to the provisions made for the registration of births taking place within the Colony; and the terms of thirty days and six months respectively shall be reckoned from the day of such child's arrival in the Colony, instead of from the day of birth.
12. It shall not be lawful for any registrar to register the birth of any child after the expiration of six months following such birth, if in the Colony, or after the arrival therein of the child, if born at sea or out of the Colony, and no register, or certified copy of a register, of birth, made contrary to this provision shall be received in evidence to prove the birth of any child.
13. If any child whose birth shall have been registered without a christian or first name, shall, within twelve calendar months next after such registration, have any such name given to it, the person who shall have signed the original entry may cause the name so given to be added by the registrar to such entry.
14. Every person by whom the information contained in any register of birth or death, under this Law, shall have been given, shall sign his name in the register, to which shall be added either by himself or by the registrar in his presence, his description and place of abode; and no register of births or deaths, according to this Law, shall be given in evidence which shall not be signed by some person professing to be the informant of the registrar.
15. Every registrar, immediately upon registering any death, or as soon thereafter as he shall be required so to do, shall, without fee or reward, deliver to the person giving information, or to some relative of the deceased, or other person having charge of the funeral, a certificate under his hand, according to the form in Schedule D hereunto annexed, that such death has been duly registered (A); and such certificate shall be duly delivered by such undertaker or other person to the minister or officiating person, who shall be required to bury or perform any funeral or religious service for the burial; and if any dead body shall be buried, for which no certificate shall have been so delivered, the person who shall bury the same, or perform any funeral or religious service for the burial, or who shall in any other way dispose of the body, shall forthwith give notice of the facts to the registrar.
16. Every person who shall bury, or perform any funeral or religious service for the burial of any dead body, for which no certificate shall have been duly made and delivered as aforesaid, either by a registrar, or by the Resident Magistrate or Justice of the Peace making an investigation in reference to the dead body, and who shall not within two months give notice thereof to a registrar of the district, shall be liable to forfeit and pay a sum not exceeding £10 for every such offence, to be recovered in a summary way.
17. Any person upon whose information any birth or death shall have been registered, who shall discover any error to have been committed in the form or substance of such entry, shall not be liable

Law 16, 1867.

Birth of child under age of eighteen months, not born in the Colony, may be registered within six months after arrival.

No birth to be registered after expiry of six months.

Christian names may be added to register within twelve months.

Person giving information must sign his name in register;

otherwise register not receivable in evidence.

Registrars to give certificates of registration of deaths.

Any person performing burial service, &c (without such certificate) must give notice to registrar.

Any person not giving such information liable to penalty (£10).

Error in informations of births or deaths may be corrected within three months.

(A) The Supreme Court will not authorise a Registrar of Deaths to give a statutory certificate of a death that has

not been duly registered in terms of this Law (*Re Evans*, 11 N.L.R. 28).

Law 16, 1867. to any penalty on account thereof if, within three months next after the discovery of such error, he shall, in presence of the registrar and one credible witness, who shall respectively attest the entry, truly correct the error by signing a new entry in the margin or in another part of the register book, to which a distinct reference shall be made by writing across the original entry, and adding the date of such correction, but in either case without alteration or obliteration of the original entry.

Registrars to allow searches, and give certified copies. 18. Every registrar who shall have the keeping for the time being of any register book of marriages, births, or deaths, shall, during office hours every day, Sundays and public holidays excepted, allow searches in any register book in his keeping to be made, and, if called upon to do so, give a copy certified under his hand of the entry of any marriage, birth, or death, registered.

Searches and indexes. 19. The Registrar-General shall cause indexes of the certified copies transmitted to him by the registrars according to the provisions of this Law, to be made and kept at his office, and permit any person demanding so to do to search any such index, and to have a copy, certified under the Registrar-General's hand, of any entry of a marriage, birth, or death, duly returned and certified to him by any registrar.

Ministers and marriage officers to make returns. 20. Every minister or marriage officer solemnising any marriage under the provisions of Ordinance No. 17, 1846, shall, in terms of section six of this Law, transmit to the Registrar-General a copy of the duplicate original register of every marriage solemnised by him (A).

Certified copies of entries to be received in evidence. 21. Certified copies of registers or entries made or given by the Registrar-General or any registrar, and purporting to be signed by such officers respectively, shall be received as "prima facie" evidence in any court of justice within the Colony, of the fact of the marriage, birth, or death, to which the same relates.

Penalty for refusing to give information required by this Law. 22. Every person who shall offend against this Law by refusing or neglecting to give any notice or information required by any of the foregoing sections, shall, for every such offence, forfeit a sum not exceeding five pounds: Provided that in the case of a birth the father, or if he be dead or absent, or the child be illegitimate, the mother of the child, and in the case of a death, the occupier of the house in which such death shall have taken place, shall respectively be the persons liable to this penalty.

Penalty on registrar refusing to register or negligently losing or injuring register, &c. 23. Every registrar who shall refuse, or, without reasonable cause, omit to register any birth of which he shall have had due notice and information as aforesaid, and every person having the custody of any register book or certified copy thereof, or of any part thereof, who shall negligently lose or injure the same, or negligently allow the same to be injured whilst in his keeping, shall forfeit and pay a sum not exceeding twenty pounds for every such offence.

Persons wilfully making false statements for registration guilty of falsity. 24. Every person who shall wilfully (B) make, or cause to be made, for the purpose (C) of being inserted in any register book of marriages, births, or deaths, any false statement touching any of the particulars required to be known and registered under the provisions of this Law, shall be deemed guilty of the crime of falsity.

Wilfully destroying or falsifying registers, giving false certificates, &c.—punishment, three years imprisonment. 25. Every person who shall wilfully destroy or injure, or cause to be destroyed or injured, any register book of marriages, births, or deaths, or any part, or certified copy of any part, thereof, or shall falsely make or counterfeit, or cause to be falsely made or counterfeited,

(A) See Law 17, 1875, post, which adds words to this section.

(B) Cf. 6 & 7 Will. 4, c. 86, s. 41, under which it was held that in order to obtain a conviction it must be proved that the false statement was made wilfully and

intentionally, and not by mistake (*Reg. v. Lord Dunboyne*, 3 Car. & K. 1).

(C) It appears that to constitute the offence under this section the purpose need not be effected; see *Reg. v. Mason*, 2 Car. & K. 622.

any part of such register book or certified copy thereof, or shall wilfully insert, or cause to be inserted, in any register book or certified copy thereof, any false entry of any marriage, birth, or death, or shall wilfully give any false certificate, or shall certify any writing to be a copy or extract of any register book, knowing the same register to be false in any part thereof, or shall forge or counterfeit the signature, seal, or stamp, of the Registrar-General, or of any district registrar, or any impression thereof, shall be deemed guilty of a criminal offence, and be liable, on conviction, to imprisonment, with or without hard labour, for any term not exceeding three years: Provided always, that every person having the custody or care of any such register, who shall wilfully permit or allow any such offence as aforesaid to be committed, shall be liable to the same punishment.

Law 16, 1867.

26. The officiating minister of every denomination of every district in the Colony, and every registrar of any borough, shall within six months after the coming into operation of this Law, transmit to the Registrar-General, under the provisions of this Law, a list of all registers of marriages, births, and deaths, which the said minister or his predecessors, or the registrar of any borough, shall have registered or enrolled, before the coming into effect of this Law.

Special returns.

27. Nothing herein contained shall apply to the registration of marriages, births, or deaths of natives, except of those natives to whom the provisions of Law No. 11, 1864, may apply (A).

Law not to apply to natives. Exception.

28. Nothing herein contained shall affect or abrogate or repeal or interfere with the provisions of Ordinance No. 17, 1846, entitled "Ordinance to amend the Law regarding Marriages within the District of Natal," or with the duties or obligations thereby imposed.

Ord. 17, 1846, not repealed.

29. This Law shall commence and take effect from and after the 1st day of January next, and may be cited for all purposes as the "Registration Law, 1867."

Commencement

SCHEDULE A.

Duplicate Original Register.

Schedules.

18 —Marriage solemnized at County of —18 in the

No.	When Married.	Names and Surnames.	Ages.	Condition.	Rank or Profession.	Residence at the time of Marriage.	After Banns or License.	Consent, by whom given, or Judge's order.

(A) See proviso added by Act 5, 1896, post.

REGISTRATION (BIRTHS, &c.)

Law 16, 1867.
Schedules,

Married in the _____ at _____ aforesaid [after
banns] by me.

(Signature and description of officiating Minister).

This marriage was solemnised between us,

(Signatures)

In the presence of _____

Examined with the Original Register by me, and found to be
correct.

SCHEDULE B.

18 .—Births in the District of _____

No.	When born, and where.	Name, if any.	Sex.	Name and Surname of Father.	Name and Maiden Surname of Mother.	Rank or Profession of Father.	Signature, description, and residence of Informant.	When registered.	Signature of Registrar.	Name, if added after Registration of Birth.

SCHEDULE C.

[Repealed by Act No. 38, 1899.]

SCHEDULE D.

I, _____, Registrar of Births and Deaths
in the District of _____, do hereby certify that the death
of _____ was duly registered by me, on
the _____ day of _____, 18____
Witness my hand this _____ day of _____ 18____
Registrar.

Law No. 17, 1875.

“ To amend the Law No. 16, 1867, entitled ‘ Law for the Registration
of Marriages, Births, and Deaths within the Colony of Natal.’ ”

[17th December, 1875.]

WHEREAS, for the purposes of the aforesaid Law No. 16, 1867,
it is desirable that a copy of the duplicate original register of all
Marriages solemnised in this Colony should be transmitted to the
Registrar-General in terms of the said Law; and whereas such copies
have not in all cases been transmitted in terms thereof:

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:— Law 17, 1875.

1. The following words shall be deemed to be inserted at the conclusion of Section twenty of said Law No. 16, 1867:—“ And every Minister or Marriage Officer who shall refuse or neglect to transmit the same as required by this Law, shall, on conviction before the Court of any Resident Magistrate forfeit, and pay any sum not exceeding Five Pounds sterling.” Sec. 20, Law 16, 1867, amended.

2. This Law shall commence and take effect from the promulgation thereof in the “ NATAL GOVERNMENT GAZETTE ” (A). Commencement

Act No. 17, 1894.

“ To amend the Registration Law No. 16 of 1867.”

[5th July, 1894.]

WHEREAS it is expedient to amend in certain respects the Law No. 16 of 1867, entitled “ Law for the Registration of Marriages, Births, and Deaths within the Colony of Natal.”

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:—

1. Any person who is by Law No. 16 of 1867, required to give information of a birth or death, and who shall reside at a greater distance than three miles from a Registrar appointed under that Law, may give such information to a Justice of the Peace of the district in which the birth or death shall have occurred Information of birth or death may be given to a J.P.

2. The information with all requisite particulars shall be given in the forms set out in Schedules A and B to this Act annexed respectively, or as near thereto as the circumstances of each case shall allow, and the truth of the information shall be declared by the informant, and his signature shall be written thereto in the presence of the Justice of the Peace, and the Justice of the Peace shall attest the informant’s signature, and shall forward the form to the Registrar of the district in which the birth or death occurred. Formalities to be observed.

3. On receipt of a form verified by declaration in terms of Section 2 of this Act the Registrar shall enter in his register the information conveyed thereby, together with a note shewing that the information was derived from a form filled up in terms of this Act, and the form shall be filed in the office of the Registrar, who shall, if called upon to do so, give a copy certified under his hand of the form verified by declaration, and also of the entry made thereupon in his register. Registration.

4. The Registrar-General and each Registrar shall, when applied to, issue and hand or forward to any applicant for the purposes of this Act, a printed blank form as set out in Schedule A or Schedule B to this Act annexed. Forms to be supplied.

5. Every Justice of the Peace who shall, under this Act, attest the declaration as to any death, shall, if thereto required, deliver to the person giving the information, or to some relative of the deceased, or other person having charge of the funeral, a certificate under his hand according to the Form in Schedule C to this Act annexed, that such death has been duly registered, and such certificate shall be deemed a sufficient certificate within the meaning of Section 15 of Law No. 16 of 1867. Certificate of registration of death.

(A) Feb. 8, 1876.

Act 17, 1894.

Application for registration after six months.

Papers to be forwarded to Registrar General.
Decision of Registrar General subject to review.

Disposal of deposit.

Fees for searches and copies.

Construction of this Act with Law 16, 1867.

6. In case the birth of a child has not been registered before the expiration of six months from the day of birth or of first arrival in Natal, it shall be lawful for the parent, who was present at the birth or the guardian of such child to apply to the Registrar of Births by letter for the registration of the birth. Such application shall be accompanied by a solemn declaration made by the applicant, in writing, setting forth the particulars required to be registered, and stating the reasons for the delay in registering the birth, and the applicant shall therewith lodge with the Registrar the sum of One Pound and One Shilling Sterling.

7. The Registrar shall thereupon forward the application and declaration to the Registrar-General, with his recommendation thereon.

8. The Registrar-General may thereupon, in his discretion, but subject to review by the Governor in Council, direct that the birth be registered, or that it be not registered, but the Registrar-General shall not in any case direct registration if the child had attained the age of seven years before the making of the application, unless on the authority of an order made by the Governor in Council.

9. If the Registrar-General direct that the birth be registered, the sum deposited as aforesaid with the Registrar shall be paid to Her Majesty for the use of the Colonial Government, but if otherwise, it shall be repaid by the Registrar to the applicant.

10. The following fees of office shall be paid to Registrars of Births, Marriages, and Deaths, or to the Registrar-General, as the case may be, in respect of searches made and certified copies given, as required by Law No. 16 of 1867, or this Act:—

For every search—One Shilling.

For every certified copy—One Shilling and Sixpence.

11. This Act, and Law No. 16 of 1867, shall be read together as one Act.

SCHEDULE A.

Schedules.

18 —Births in the District of

When Born, and Where.	Name, if any.	Sex.	Name and Surname of Father.	Name and Maiden Surname of Mother.	Rank or Profession of Father.	Signature, Description, and Residence of Informant.	When Registered

I, _____ of _____ do following the occupation of _____ of _____ do solemnly declare that the foregoing information is true, to the best of my knowledge and belief.

(Signature).

Declared before me, this _____ day of _____ 18 _____, Act 17, 1894.
 at _____ Justice of the Peace. Schedules.

SCHEDULE B.

[Repealed by Act No. 38, 1899.]

SCHEDULE C.

Certificate of due Registration of Death.

I, _____ Justice of the Peace for the _____,
 do hereby certify that the death of _____ was duly
 registered before me on the _____ day of _____ 18 _____
 Witness my hand, this _____ day of _____ 18 _____
 _____ Justice of the Peace.

Act No. 5, 1896. (a)

"To amend Laws Nos. 16, 1867, and 46, 1887."

[23rd May, 1896.]

WHEREAS it is expedient to provide for the registration of births and deaths of Natives being the offspring of Natives married by Christian rites under the provisions of Law No. 46, 1887, and for this purpose to amend the provisions of Law 16, 1867, and Law No. 46, 1887:

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:—

1. Section 27 of Law No. 16, 1867, known as the "Registration Law, 1867," is hereby amended by adding thereto the following words:—

Amendment of sec. 27, Law 16, 1867.

Provided that marriages of Natives by Christian rites under the provisions of Law No. 46, 1887, and births and deaths of Natives being the offspring of Natives married by Christian rites under the provisions of said Law No. 46, 1887, shall come under the provisions of this Law.

2. Any birth, which shall have occurred before the commencement of this Act, of a Native being the offspring of Natives married by Christian rites under the provisions of said Law No. 46, 1887, may be registered under the provisions of the "Registration Law, 1867," at any time after the passing of this Act.

Registration of births of native born of Christian marriage prior to this Act.

REGISTRATION (DEEDS).

REGISTRATION (DEEDS).

[See "MORTGAGES."]

Ordinance No. 2, 1846.

"Ordinance for creating a Deeds' Registry Office for the District of Natal."

[7th January, 1846.]

1. WHEREAS it is expedient to create a Deeds' Registry Office for the District of Natal: Be it enacted, by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council thereof, that it shall and may be lawful for the Lieutenant Governor of the District of Natal to appoint some fit and proper person to be and act as Registrar of Deeds for the said District.

Registrar of Deeds to be appointed by Governor.

Deeds, &c., to be enregistered in like manner as at Cape Town.

2. And be it enacted, that it shall and may be lawful for such Registrar of Deeds, and he is hereby required, to certify, enregister, and subscribe all deeds, acts, and instruments relating to persons or property within the District of Natal, presented for registration and proper for the same, in manner and form as the Registrar of Deeds at Cape Town is authorised and required to certify, enregister, and subscribe deeds, acts, and instruments, relating to persons or property within those parts of this Colony, other than the said District.

Deeds, &c., of a nature competent or incompetent to be registered at Cape Town, are, *mutatis mutandis* competent or incompetent at Natal.

The legal effects of registration or non-registration extended to Natal.

3. And be it enacted, that the Registrar of Deeds for the District of Natal shall certify, register, and subscribe no deed, act, or instrument, which deed, act, or instrument, "*mutatis mutandis*," would, from its form or nature, be incompetent to be registered in the Deeds' Registry Office at Cape Town; and, "*vice versa*," every deed, act, or instrument which would, from its form and nature, be competent to be registered in the Deeds' Registry Office at Cape Town, shall, "*mutatis mutandis*," be registered in the Deeds' Registry Office of Natal, and the same legal consequences, in every respect, which would attach to the registration or non-registration of any deed, act, or instrument, according to the laws now in force in those parts of this Colony, other than the said District of Natal, shall attach and become operative in regard to the registration or non-registration of any deed, act, or instrument of the same kind, denomination, or description, within the said District of Natal.

4. [Repealed by Law No. 21, 1866.]

Commencement

5. And be it enacted, that this Ordinance shall commence and take effect from and after such date as shall be fixed and appointed for the commencement thereof by any Proclamation to be by the Lieutenant Governor of the said District for that purpose issued, and posted upon or affixed to any public place in Pietermaritzburg aforesaid.

Ordinance No. 33, 1846. (a)

"Ordinance for amending the Ordinance No. 2, 1846, entitled 'Ordinance for creating a Deeds' Registry Office for the District of Natal.'"

[25th November, 1846.]

1. WHEREAS in and by the first section of the Ordinance No. 2, 1846, entitled "Ordinance for creating a Deeds' Registry Office for the

District of Natal," it is provided that it should and might be lawful for the Lieutenant Governor of the said District, to appoint some fit and proper person to be and act as Registrar of Deeds for the said District: And whereas, it is expedient that the appointment of such Registrar as aforesaid should be vested in Her Majesty the Queen: Be it enacted, by the Governor of the Cape of Good Hope, with the advice and consent of the Legislative Council thereof, that so much of the said first section of the said Ordinance as empowers the Lieutenant Governor aforesaid to appoint a person to be and act as such Registrar of Deeds aforesaid shall be and the same is hereby repealed; and that it shall and may be lawful for Her Majesty the Queen, her heirs and successors, to appoint from time to time some person to be such Registrar of Deeds as aforesaid. Provided always, that nothing herein contained shall be deemed or taken so as to invalidate or affect any act of any person appointed under and by virtue of the Ordinance aforesaid done or performed before the commencement and taking effect of this Ordinance; and provided also, that pending any such appointment as aforesaid by Her Majesty the Queen, the Secretary to Government for the District of Natal, or officer for the time being acting as such, shall be and act as the Registrar of Deeds for the said District.

Ord. 33, 1846.

Registrar of Deeds at Natal to be appointed by the Queen, her heirs and successors.

2. And be it enacted, that this Ordinance shall commence and take effect from and after such date as shall be fixed and appointed for the commencement thereof by any proclamation to be by the Lieutenant Governor of the said District for that purpose issued and posted upon or affixed to any public place in Pietermaritzburg (A).

Commencement

Law No. 16, 1859.

"To enable the Supreme Court to order transfer of land to be made in certain cases."

[21st June, 1859.]

WHEREAS, many persons who have acquired lands in this Colony are now unable without much inconvenience and expense to obtain legal and valid title to the same, by reason of the absence from the Colony, death, or insolvency of the parties from whom such lands were acquired, and it is expedient to make provision by law in this respect:

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

1. Any person claiming title to or transfer of any land in this Colony from or through any person who, by reason of absence from the Colony, death (B), or insolvency is unable to give such title or transfer, may petition the Supreme Court of Natal to order such title to or transfer of such land to be made to the petitioner (C).

Petition to Supreme Court.

2. The said Supreme Court may direct such inquiry by the examination of witnesses on oath, either before the said Court or any

Evidence called for by Supreme Court.

(A) Confirmed; *vide Cape Gazette*, Aug. 19, 1847.

(B) Transfer authorised where owner had given Power of Attorney and died (*In re Stutfield*, 5 N.L.R. 133). Also where a deceased person had purchased property in his lifetime from a person who had left the Colony and could not be found (*In re Meyer*, 15 N.L.R. 199); see also *In re Saker*, 20 N.L.R. 26; and *In re Ritson*, 16 N.L.R. 247.

(C) In a case where petitioner averred that she had "endeavoured to trace" the person through whom title was claimed, and "believed him to be dead," the Court would not presume the fact of death and held that, for the purpose of an order, none of the causes specified in this Law had been assigned (*In re Arbuthnot*, 12 N.L.R. 68). See also *Ex pte. Skinner*, 17 N.L.R. 142.

Law 16, 1859. Commissioner by them appointed on that behalf, or require the petitioner to adduce such proof as to it may seem necessary, and may also order such public notices in regard to any such claim to be given in the "GOVERNMENT GAZETTE," or in all or any one of the other local newspapers, as circumstances may require.

Penalty for not attending, or refusing to give evidence.

3. Any person duly subpoenaed to give evidence before the said Court, or any commissioners appointed in that behalf as aforesaid, shall, if he fail to attend without good and valid excuse, be liable to all and the like penalties as a witness in contempt as to the ordinary process of the Court in any suit or action depending therein; and if attending, and refusing to be sworn or give evidence, to the full penalties to which such witness would be liable if so refusing in any ordinary suit before the Court.

Supreme Court may order transfer.

4. The said Supreme Court may, if proof to its satisfaction appear, make an order upon the Registrar of Deeds, directing the transfer of any such land from the original grantee direct to the petitioner, or from any transferee between the original grantee and the petitioner direct to the petitioner (A).

Dues payable by petitioner.

5. The petitioner shall be liable to pay the transfer dues to Government on each and every intermediate sale or transaction in regard to such land between himself and the original grantee, as well as the transfer dues in respect of the sale or transaction in virtue of which he claims title or transfer.

Transfer subject to mortgage.

6. In every case in which any transfer is claimed under this Law, if it shall appear that the land so claimed is duly mortgaged, the said Supreme Court shall in its order for transfer direct that the said transfer shall be subject to such mortgage and the interest thereon, unless the petitioner will pay the amount thereof and the interest due thereon to the Master of the said Court, for and on account of the mortgagee.

Petition may be dismissed.

7. The said Court may, if any petition appear unfounded or unsupported by evidence, dismiss the same: Provided always, that such dismissal shall not bar any subsequent application by the same petitioner in respect to the same land.

Fees of Court.

8. The same fees of Court shall be paid for business under this Law as are payable by any other suitor in the said Supreme Court.

Fees for transfer.

9. The same fees as in any ordinary transfer shall also be payable for transfers under this Law.

Petitioner may conduct his own case.

10. Any petitioner may himself conduct the prosecution of his petition before the Court.

Petition may be opposed.

11. Any person having any interest, direct or indirect, in, or any person in any wise representing the person in whose name such property stands registered at the time of filing the petition, may if he thinks fit oppose the granting of an order of transfer under this Law.

Interpretation.

12. The terms "between the original grantee and the petitioner," in the fourth section of this Law, shall be taken to mean and include any transfer from the original grantee to some person deriving title by transfer from the original grantee, or any person deriving title by transfer from such last mentioned person, and all subsequent transfers prior to the sale or transaction in virtue of which the petitioner claims title.

13. The terms "between himself and the original grantee," in the fifth section of this Law shall be taken to mean and include every sale or transaction in regard to the land to which the petitioner seeks to obtain transfer which shall have occurred prior to the sale or transaction in virtue of which the petitioner claims transfer, and on which no transfer dues have been already paid.

(A) See *In re Sewell*, 17 N.L.R. 30, for an instance of an order for transfer of leasehold property. See also sec. 12, post.

14. Nothing in this Law contained shall be deemed to deprive any such petitioner of any right he may possess of recovering by ordinary process of law any quit-rent, transfer dues, or other money paid by him under this Law for the purpose of proving title, and to which otherwise he would not be personally liable.

Law 16, 1859.
Sums paid and recoverable by petitioner.

15. This Law shall commence and take effect from and after the promulgation of Her Majesty's confirmation thereof (A).

Commencement

Law No. 5, 1860.

“To amend the Law for regulating the Payment of Transfer Duty on the Sale and Transfer of Immovable Property.”

[31st July, 1860.]

WHEREAS, certain clauses of the Law at present in force for regulating the payment of transfer duty upon the sale and transfer of immovable property are oppressive in their operation and unsuited to the circumstances of this Colony; and whereas it is expedient to amend the said Law:

1. BE IT THEREFORE ENACTED, by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

2. The Ordinance No. 3, 1846, shall be and the same is hereby repealed, except in so far as regards duties or additional duties incurred prior to the enactment of the present Law; which duties or additional duties shall continue to be payable under second and thirteenth sections of Ordinance No. 3, 1846, as if the said Ordinance were still in force: Provided always, it shall and may be lawful for the Governor for the time being, upon satisfactory cause being shown, to remit the whole or any portion of the additional duties payable under the thirteenth section of Ordinance No. 3, 1846.

Ord. 3, 1846,
repealed.

3. [Repealed by Law No. 19, 1883.]

4. Every sale or change of ownership of any interest in, right to, or expectation of any such property as aforesaid made by the person in whose name the original grant or title deed from the Crown shall have been or shall be issued or issuable, or by any person claiming from or under him, shall be chargeable with duty computed as aforesaid (B); and shall, unless it come within some of the exemptions enumerated in the annexed Schedule marked No. 1, pay the same accordingly (C).

Same duty payable upon sale of the right of original grantee, or person claiming under him.

5. When and as often as any such property as aforesaid standing registered in the Deeds' Registry Office of this Colony in the name of any one person, whether alive or dead, shall be removed from the name of that person and placed or registered in the name of any other person having legal right and title to the same, such removal shall be deemed and taken, for the purposes of the last preceding section of this Law, to be a changing of proprietors in regard to such property.

What acts to be deemed a change of proprietors for the purposes of sec. 6.

6. [A duty of four per centum (D)] shall (except as in schedule No. 1, hereunto annexed, is excepted) be payable upon the value of

Same duty of 4 per cent. on property changing owners otherwise than by sale.

(A) July 12, 1859.

(B) See Law 5, 1890, s. 1, post, which fixes the duty at two pounds per cent.

(C) See Law 20, 1865, post, as to exemption of growing crops, &c., from duty; and Act 43, 1899, ss. 90 and 91, tit. “MINES AND COLLIERIES,” as to ex-

emption of the price of gold, silver, and precious stones supposed to be in the land.

(D) Words in brackets are expunged by Law 5, 1890, s. 1, post, which substitutes the words “a duty of two per centum.”

Law 5, 1860.

any such property as aforesaid (A), by every person becoming entitled to the same in every case in which it shall change proprietors (B) by way of exchange, donation, legacy, testamentary or other inheritance, or generally in any manner whatsoever, otherwise than through the medium or by means of purchase and sale.

Joint owners
prima facie
owners of equal
shares.

7. Whenever any such property as aforesaid shall be registered in the name of more persons than one as joint owners, all the said persons shall be deemed and taken, for the purpose of payment of duty upon or in respect of any sale or alienation by any of them to any other or others of them, to have equal shares or interests in the said property, unless the particular share or interest of each shall be declared and set forth by and upon the title deed or other instrument recorded in the Deeds' Registry Office.

Duties, to whom
payable.

8. All duties payable under and by virtue of this Law shall be payable to the Registrar of Deeds, and to such other person or persons as the ~~Lieutenant Governor of the Colony~~ ^{Commonwealth of England} aforesaid shall, by Proclamation in the "NATAL GOVERNMENT GAZETTE" from time to time appoint. And the said Registrar of Deeds, and such person or persons, shall possess and perform the several functions by this Law enacted to be possessed and performed by the persons hereinafter designated "Receivers of Transfer Duty."

Declarations to
be required by
Receivers of
Transfer Duty.

9. No such Receiver of Transfer Duty as aforesaid shall receive the amount of any such duty as aforesaid payable upon or in respect of any sale and purchase of any such property as aforesaid, until either the seller shall have made and subscribed the form of declaration set forth in the schedule marked No. 2, hereunto annexed, or the purchaser shall have made and subscribed the form of declaration set forth in the schedule marked No. 3, hereunto annexed. And [in case of a change of proprietors, otherwise than through the medium or by means of purchase and sale, the duty as aforesaid shall not be received until the donor and donee respectively shall have made and subscribed the form of declaration of donor set forth in schedule No. 4, and declaration of donee set forth in schedule No. 5, hereunto annexed (c)].

Agent may
make declara-
tion in certain
cases.

10. When and so often as it shall appear to any Receiver of Transfer Duty that any agent or other person acting for or on behalf of any such seller or purchaser of any such property as aforesaid has himself, in his said capacity, made and entered into the contract of sale or purchase, then it shall be lawful for such Receiver of Transfer Duty to demand and receive the declaration of such agent or other person as aforesaid either in lieu of or in addition to that of his principal, according as such Receiver of Transfer Duty shall under the circumstances of the case deem fit; and the declaration to be made and subscribed by every such agent or other person as aforesaid

When sale can-
celled by mutual
consent, before
transfer, duties
to be remitted.

11. When and as often as any contract of sale upon which any transfer duty shall be payable shall be, by mutual consent of the shall be in the form set forth in the schedule No. 6, hereunto annexed. vendor and purchaser, cancelled and rescinded before transfer made, without any part of the purchase money having been paid (D), or any valuable consideration given or promised by or on behalf of the purchaser for the purpose of obtaining the consent of the vendor to

(A) See note (c) to sec. 4, ante.

(B) For decisions throwing light upon the question of when a change of proprietorship may be held to take place see *In re Estate of Eliza Power*, 16 N.L.R. 132, and *In re Challinor*, 19 N.L.R. 177.

(C) Words in brackets are expunged and others substituted by Law 19, 1883, s. 3, post.

(D) Semble, where part of the purchase price has been paid, duty is payable (*Registrar of Deeds v. Victoria Club*, 2 N.L.R. 231).

such cancellation, the transfer duty upon such sale shall be remitted (A) : **Law 5, 1880.**
 Provided, that the vendor and the purchaser, or the agents, shall make in reference to such cancellation solemn declarations, which shall be in substance as in the schedules marked 7 and 8 to this Law annexed. Provided also, that the Receiver of Transfer Duty may, when in case of death or other cause any vendor or purchaser shall be unable to make any such declaration, dispense with the declaration of such vendor and purchaser. **Declaration to be made.**

12. When and as often as any contract of sale upon which any transfer shall be payable shall be set aside or declared or made void by the judgment of any competent Court, the transfer duty upon such sale, if unpaid, shall not be payable; and if paid (provided the transfer has not been executed), it shall be returned. **Declaration may be dispensed with in certain cases.**
When sale cancelled by order of Court, duty to be remitted.

13. When and as often as it shall be made to appear to any Receiver of Transfer Duty by any person who shall have sold any property upon which sale transfer duty shall be payable, that the purchaser of such property cannot be discovered within the Colony, or has left the Colony without taking transfer and without paying any part of the purchase money, and that such vendor is unable to obtain or enforce the fulfilment of the contract, it shall be lawful for any Receiver of Transfer Duty to permit the vendor aforesaid, in case he shall sell the property over again, to make the necessary alteration in the form of solemn declaration to be made by him in reference to such second sale: Provided that nothing herein contained shall alter or affect the Law in reference to the respective rights or remedies of such vendor and such purchaser in regard to such first or original sale. **How, where purchaser has left Colony without paying purchase price, or taking transfer, and seller wishes to sell over again.**

14. In the case of a fresh or second sale of any property which was included in any such sale as in the eleventh, twelfth, and thirteenth sections aforesaid mentioned, the solemn declaration to be made by the vendor in regard to such fresh or second sale shall be altered in the manner indicated in the schedule marked 9 to this Law annexed. **Form of declaration in cases mentioned in three preceding sections.**

15. The several declarations mentioned in this Law shall be made and subscribed before any Receiver of Transfer Duty, or before any Resident Magistrate or Justice of the Peace, who are hereby authorised and required to attest the same. And any person who shall wilfully and corruptly make and subscribe any declaration in this Law mentioned, knowing the same to be untrue in any material particular, shall be deemed to be guilty of the crime of perjury; and shall upon conviction thereof, suffer such punishment as shall be by law provided for the crime of perjury. **Declarations, before whom to be taken.**

16. If in any case it shall be made to appear that the seller or the purchaser of any such property as aforesaid has died or departed from the Colony without having made or subscribed the declarations hereinbefore mentioned, it shall and may be lawful for the Receiver of Transfer Duty either to dispense with such declaration altogether, or to receive in lieu thereof the declaration or declarations of such other person or persons as may, under the circumstances of the case, be in a condition to testify to the particular matters to be set forth in such declaration: Provided, however, that in the event of one declaration being dispensed with, as aforesaid, it shall be the duty of the Receiver of Transfer Duty to write upon the other declaration his reason for so doing. **Penalty for false declaration.**
Cases in which declaration of purchaser or seller may be dispensed with.

(A) Where money is paid on a conditional sale, but the condition not being fulfilled, the money is returned, the transaction is not chargeable with transfer duty (*Estate of Craggs*, 7 N.L.R. 10).

Law 5, 1860.

Duty to be paid within six months ;

If not so paid, interest to be charged.

17. The duty chargeable upon every sale or change of proprietors shall be paid within six months after the date of such sale or change of proprietors.

18. Should such duty remain unpaid at the expiration of the aforesaid space or term of six months, then the amount of such duty, together with a further sum equal to interest thereupon at the rate of twelve per centum per annum, computed from and including the day immediately following that on which the said term of six months shall have expired, shall thenceforth become chargeable upon or against the party in default.

When valuation necessary, how it is to be made.

19. For the purpose of ascertaining the value of all such property as aforesaid changing proprietors otherwise than through the medium or by means of sale and purchase, and chargeable with duty under the provisions of this Law, it shall be the duty of the Receiver of Transfer Duty to appoint some competent and disinterested person or persons to ascertain upon oath the just and fair value of such property ; and the reasonable expenses of such valuation shall be payable by the person chargeable with the payment of the duty ; and the amount at which such valuator or valutors shall value the said property shall be the amount upon which duty shall be chargeable : Provided, however, that nothing herein contained shall be held or taken to prevent any person who shall conceive himself aggrieved from bringing such valuation in review before any Court having jurisdiction.

Where declared purchase price appears much less than the value of the property, valuation to be made.

20. When in any case of sale (A) and purchase of any such property as aforesaid (not being a sale or purchase by public auction, made " bona fide " and without collusion), it shall appear to the Receiver of Transfer Duty who is to receive the duty, that the price or purchase money of the same is considerably less than its just and fair value, it shall be competent for the said Receiver of Transfer Duty to cause a valuation of the said property to be made in manner and form, as in the last preceding section mentioned ; and in case the value ascertained as aforesaid shall exceed the amount of the said price or purchase money by one-third of the amount of such price or purchase money, then the amount of such valuation shall for the purposes of this Law be deemed and taken to be the price or purchase money of such property ; and duty thereupon, together with the reasonable expenses of such valuation, shall be paid by the purchaser. But in case such value shall not exceed the said price or purchase money to the extent of one-third thereof, then duty shall be received upon such price or purchase money, and the expense of the valuation shall be borne by Government : Provided, however, that nothing herein contained shall be held or taken to prevent any person who shall conceive himself aggrieved from bringing such valuation in review before any Court having jurisdiction.

Mode of proceeding when exemptions from duty are claimed.

21. Whenever any person requiring to have any transfer or change of name effected in the Deeds' Registry Office of this Colony shall claim to be exempted from the payment of duty, under and by virtue of any of the exemptions mentioned and contained in the schedule No. 1 hereto annexed, it shall be the duty of the Registrar of Deeds to require due proofs of all facts and circumstances by reason or on account of which such exemption is demanded ; and he is hereby empowered to administer, when it shall seem to him necessary, an oath to such person or persons as shall come before him to give evidence or make any statement touching the claim to any such exemption ; and he may also require the production of any deeds or instruments

(A) Property abandoned by creditors held to be a sale coming within this sec. in an insolvent estate to the mortgagee, (*Re Estate of Troy*, 8 N.L.R. 239).

connected with the case, and tending to show whether or not such exemption ought by law to be allowed. Law 5, 1860.

22. When and as often as any question shall arise between the Registrar of Deeds and any person claiming to be entitled to any such exemption as aforesaid, regarding the right to such exemption, or the extent of that right, or generally any matter concerning the amount upon which any such person should justly and legally be chargeable with duty, it shall and may be lawful for the Chief Justice of the Colony, or any other of the Judges of the Supreme Court, sitting in chambers, to hear the said Registrar of Deeds and the said person, or any person or persons representing each respectively, as to the matter in question, and to examine the proofs (if any) which shall have been offered in support of the claim to exemption, and to call for such further proof as may be necessary, and in a summary manner to make, if he shall so think fit, such order in the premises as shall to justice appertain: Provided always, that either the said Registrar of Deeds, or any person claiming to be entitled to any such exemption as aforesaid, may bring the order so made in any such case by way of appeal before the Supreme Court, in order that the same may be heard and determined by the said Court. Disputes in regard to exemptions to be decided by a Judge in Chambers. Appeal.

23. All duties chargeable under and by virtue of this Law shall be recoverable by the officer to whom under and by virtue of this Law the particular duty in question shall be payable by action or suit in any competent Court; and no property liable to duty shall be transferred in the office of the Registrar of Deeds until the receipt of the proper officer for the payment of the duty shall have been produced to and deposited with the said Registrar, and the declaration of purchaser and seller or donor and donee shall both have been deposited with the Registrar of Deeds (A). Duties, by whom recoverable. Transfer not to be granted until receipt for duty, &c., is produced.

24. [Repealed by Law No. 19, 1883.]

25. That this Law shall commence and take effect from and after the date of the promulgation thereof in the "GOVERNMENT GAZETTE" after the passing thereof. Commencement

SCHEDULE No. 1 (B).

A. When any person appearing upon the records of the Deeds' Registry to be a joint owner (c) of any property shall purchase that property, he shall not be charged with duty upon that proportion of the purchase money which represents his individual share or interest. Schedules.

B. Any person who, either in the ascending or descending line, would be the heir or one of the heirs, "ab intestato," of any deceased person, and who shall, being entitled as an heir or legatee in the estate, purchase or take over the immovable property in the estate or any part thereof, shall not be chargeable with duty upon so much of the purchase money or value of such property as represents his share (D), considered as or as if an heir "ab intestato"; and the husband of any such heir or legatee, or the tutor, curator, or authorised agent or trustee of any such heir or legatee purchasing for or in the name of such heir or legatee shall be deemed and taken to be such heir for the purpose of this exemption.

(A) See also Law 38, 1874, s. 3, tit. "LANDS IMPROVEMENTS."

(B) "Altered and amended" by Law 19, 1883, s. 7, post.

(C) A person who is a joint owner in connection with a firm is entitled to the benefit of the exemption, according to

the established practice (*In re Mowat*, 18 N.L.R. 266).

(D) As to whether this word "share" represents the share in the property to be transferred or the share in the whole estate, see *In re Vanderplank*, 19 N.L.R. 138; *In re Coakes*, 19 N.L.R. 143.

Law 5, 1860.
Schedules.

C. Any heir or legatee of any deceased person, being such a person as has been above described under letter B, who shall require to have any of the immovable property inherited by him from the deceased, or by the deceased legated or pre-legated, to remove from the name of the deceased into his own name, shall not be chargeable with duty upon the amount of his share in the property so to be transferred, in case or supposing that the deceased died intestate.

D. [Repealed by Law No. 19, 1883.]

E. When any surviving spouse shall have been instituted as sole and universal heir of the first dying spouse, which first dying spouse shall leave children him or her surviving, such children shall respectively be entitled (unless wholly and lawfully disinherited) to the exemptions provided as aforesaid under the letters B and C, precisely as if they, together with the surviving spouse, had been instituted joint heirs of the deceased (A).

F. The husband of any female, to whom he shall be married in community of property, may have any property standing in the Deeds' Registry Office in the unmarried name of such female removed unto his own name without the payment of any duty (B).

G. As often as the owner of any immovable property, being a husband, or intended husband, or being an intended wife, or being the parent of a husband or wife, or of an intended husband or intended wife, shall agree or determine to vest such property in a trustee, or trustees, for the purpose of thereby making a provision for the support of the marriage, or for the wife or intended wife, or for the children of the marriage, transfer of such property may be made to such trustee or trustees without the payment of any duty (C): Provided, that this exemption shall only extend to cases in which no consideration other than an intended marriage or natural love and affection for or towards both or one or other of the spouses or the children of their marriage, shall be given to the owner of the property proposed to be vested in trustees upon the trusts aforesaid, or upon trusts of the like nature.

H. In every case in which any person shall, by the records in the Deeds' Registry Office, appear to be merely a trustee for any other person, whether the latter shall be a minor or major, or under coverture or not, the property so held in trust may be removed from the name of the trustee to that of the other party being entitled to have it so removed, without the payment of any duty.

I. [Repealed by Law No. 19, 1883.]

K. In every case in which property shall be required to be transferred to public institutions for religious, educational, benevolent, literary, or scientific purposes, such property shall be exempt from the payment of all transfer dues and fines (D).

SCHEDULE NO. 2.

Declaration for Seller (E).

I do solemnly and sincerely declare that
the sum of _____ is the full and entire purchase
money for which I sold certain _____ to _____;
and I do declare that I sold the same to the said _____
on the _____ day of _____ and not before; and

(A) See *Heslop v. Heslop*, 12 N.L.R. 98.

(B) See *Heslop v. Heslop*, ubi supra.

(C) The provisions of this sec. are not restricted by Law 19, 1883, Schedule 1 (d). See *In re Jonsson*, 19 N.L.R. 151.

(D) When transfer has been passed to a religious community free of duty

under this Schedule, the Registrar of Deeds cannot refuse to allow the registered owners to transfer until they have paid duty on the transfer to them (*In re the Poor Sisters of Nazareth*, 18 N.L.R. 261).

(E) See *In re McLaurin*, 11 N.L.R. 73.

that I am not to receive any other valuable consideration for or in respect of the alienation of the said property; and I do further declare that the said sale was made direct by me to the said and not to any other person through him. Law 5, 1860.
Schedules.

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

Declared before me, this
day of 18

SCHEDULE No. 3.

Declaration for Purchaser.

I do solemnly and sincerely declare that the sum of is the full and entire purchase money given or to be given by me to for certain bought by me from him; and I do declare that I bought the same from the said on the day of and not before; and that I have not, nor has any person to my knowledge, on my account given, nor is there by me or on my behalf to be given, any other valuable consideration of any kind whatever for or in respect of the alienation to me of the said property: and I make this solemn declaration, conscientiously believing the same to be true.

Declared before me, this
day of 18

SCHEDULE No. 4.

Declaration for Donor.

I do solemnly and sincerely declare that the sum of is the full and entire value of given by me to And I declare that I gave the same to the said on the day of and not before; and that I am not to receive any valuable consideration for or in respect of the alienation of the said property; and I make this solemn declaration, believing the same to be true.

Declared before me, this
day of 18

SCHEDULE No. 5.

Declaration for Donee.

I do solemnly and sincerely declare that the sum of is the entire value of certain received by me from A B; and I do declare that I received the said from the said on the day of and not before; and that I have not, nor has any person to my knowledge, on my account given, nor is there by me or on my behalf to be given, any valuable consideration of any kind whatever for or in respect of the alienation to me of the said property; and I make this solemn declaration, believing the same to be true.

Declared before me, this
day of 18

REGISTRATION (DEEDS).

Law 5, 1860.

SCHEDULE No. 6.

Schedules.

Declaration of Agent.

I do solemnly and sincerely declare that I have acted as the agent of in the making of the of certain sold ; and that I know, of my knowledge, the amount of the purchase money thereof: and that I do further declare that the said was made on the day of , and not before; and that the sum of , to be paid by the said , to the said , is to the best of my knowledge and belief, the full and entire purchase money to be given and received by the said persons respectively in regard to the alienation of the said property by the one of them to the other of them; and that to the best of my knowledge and belief no further or other valuable consideration has been given or is to be given by or on behalf of the said to for or on behalf of the said property; and I make this solemn declaration, conscientiously believing the same to be true.

Declared before me, this
day of 18

SCHEDULE No. 7.

I do solemnly and sincerely declare that I sold to on the day of the property following, namely: for the sum of ; and I declare that I have never received any sum of money or other valuable consideration for the said on account of the said purchase; and I further declare that I have consented and agreed with the said to cancel by mutual consent the said sale; which sale was, on the day of cancelled accordingly. And I further declare, that I have not received, nor am I to receive, from the said , or any other person, any money or any other valuable consideration for or in reference to my consent to the cancellation of the said sale.

Declared before me, this
day of 18

SCHEDULE No. 8.

I do solemnly and sincerely declare that I bought from on the day of the property following, namely: for the sum of ; and I declare that I have never given to the said any sum of money or other valuable consideration on account of the said purchase; and I further declare that I have applied to the said to consent to cancel the said sale, which sale has accordingly been cancelled by mutual consent. And I further declare that I have not given, nor am I to give, nor has any person on my behalf to my knowledge given, nor is any person to my knowledge to give, any money or other valuable consideration for or in reference to the cancellation of the said sale; and I make this solemn declaration, conscientiously believing the same to be true.

Declared before me, this
day of 18

SCHEDULE No. 9

Law 5, 1860.

Schedule.

I do solemnly and sincerely declare that the sum of _____ is the full and entire purchase money for which I have sold _____ to _____, and declare that I sold the same to the said _____ on the _____ day of _____, and not before; and that I am not to receive any other valuable consideration for or in respect of the alienation of the said property. And I do further declare that the only person other than the said _____ to whom I ever sold the said property, or who at any time purchased the said property from me was _____ to whom I sold the same on the _____ day of _____. And I further declare that the said sale to the said _____ has been cancelled by mutual consent, and that the transfer duty thereupon has been remitted [or in regard to section eleven: and I further declare that the said sale has been set aside by a judgment of the Supreme Court, bearing date the _____ day of _____ pronounced in a suit wherein _____ was the plaintiff, and _____ was the defendant; or in regard to section twelve: and I further declare that the said _____ has, to the best of my knowledge and belief, left the Colony, or cannot be discovered within it (as the case may be); and that he has not paid me any part of the purchase money agreed to be paid; and that I have received from His Excellency the Governor the permission herewith annexed to make this special declaration]:

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

Declared before me,

this

day of

18

Law No. 20, 1865.

To exempt Growing Crops and Machinery from the payment of Transfer Duty on being sold along with the lands on which they are growing or to which they are attached."

[24th August, 1865.]

WHEREAS it is the practice under and by virtue of the Law No. 5, 1860, entitled "Law to amend the Law for regulating the payment of Transfer Duty on the sale and transfer of Immovable Property," to charge Transfer Duty on the sale of growing crops and machinery where the same are sold along with the lands on which they are growing or to which they are attached:

AND WHEREAS growing crops and machinery are not in general defined by law to be immovable, but to be movable or personal property, and if sold separately from the lands are not liable to transfer duty:

BE IT THEREFORE ENACTED by the Lieutenant Governor of the Colony of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

1. That when lands on which any of the following crops shall be growing, that is to say, sugar-canes, cotton trees, wheat, barley, rye, oats, maize, or any other agricultural produce, whether the same consist of annual plants or fruit trees, or bushes bearing fruits or berries; or any lands to which or to any buildings thereon any machinery shall be attached (whether such crops or machinery would in law be construed to be movable or fixed and immovable property) shall be sold along with such crops or machinery, no transfer duty shall be charged or

Growing crops and machinery exempted from payment of transfer duty.

Law 20, 1865. exacted by the Registrar of Deeds or other receiver of transfer duty in respect of the price or value of such sugar-canes, cotton trees, growing crops, agricultural produce which shall be sown or growing on such lands, or of the fruits or produce of such fruit trees or bushes which shall be hanging thereon, or of any machinery which shall be attached thereto at the date of such sale, any thing contained or which may be construed to be contained in sections three and four, or in any other sections of the said Law No. 5, 1860, as authorising the exaction of transfer duty on such growing crops or machinery, to the contrary notwithstanding, and which are hereby repealed in so far as they may be inconsistent with the provisions hereof, but no further.

List and valuation of such crops and machinery, to be annexed to declaration of seller and purchaser.

2. That such exemption from the payment of transfer duty shall not be claimable (except in the case specified in the following section) unless a list or inventory of such crops and machinery in respect of which such exemption is claimed with a statement of the estimated values thereof at the date of the sale, certified as correct by a sworn appraiser, be set forth in a schedule to be annexed to the declaration of the seller and purchaser respectively (A); and the purchase price required to be set forth in such declarations by said Law No. 5, 1860, shall be taken and deemed to mean the purchase price of such lands under deduction of the estimated value of such crops or machinery: Provided that to all such schedules shall be appended the following or other words to the same effect: "I hereby solemnly and sincerely declare that this schedule is true and accurate in every respect and particular to the best of my knowledge and belief"; and such schedules shall be declared before and signed by the Receiver of Transfer Duty Resident Magistrate or Justice of the Peace by whom the declarations to which they are annexed are signed, and by the seller and purchasers or their agents, of even date with the declarations; and any person wilfully and corruptly declaring and signing any such schedule, knowing the same to be untrue in any material particular, shall be deemed to be guilty of the crime of perjury, and shall upon conviction thereof suffer such punishment as shall be by law provided for the crime of perjury.

Declaration of accuracy.

Perjury.

Provisions to enable Registrar of Deeds to ascertain true value.

3. That all the provisions of section sixteen in reference to the dispensation by the Receiver of Transfer Duties, of the production of the declaration of seller or purchaser, of sections nineteen, twenty, twenty-one, and twenty-two of said Law No. 5, 1860, as to the ascertaining by him of the true value of any property transferred, and the powers thereby conferred upon him to enable him to ascertain such value, and all the other provisions of the said sections nineteen, twenty, twenty-one and twenty-two shall be respectively applicable "mutatis mutandis" to the hereinbefore mentioned schedules, the valuations therein contained, and the other matters and things connected therewith or having reference thereto; and the Receiver of Transfer Duty is hereby empowered to dispense with the production of the schedule hereinbefore referred to, or receive such schedule declared and signed by some person or persons other than the seller or purchaser or their agents, when and under the same circumstances as he shall or may dispense with the production of the declaration to which it would require to be annexed, or receive in lieu thereof the declaration or declarations of some person or persons other than the seller or purchaser under and by virtue of the said sixteenth section of said Law No. 5, 1860, and to employ the methods prescribed in said sections nineteen, twenty, twenty-one and twenty-two thereof, in order to find the true value of any such crops or machinery if dissatisfied with the valuation put thereon.

Declaration may be dispensed with.

(A) See *Ex parte H. & A. Perron*, 14 N.L.R. 119.

- 4. That in this Law "sale" shall include barter or exchange.
- 5. This Law shall commence and take effect from and after the date of its promulgation in the "GOVERNMENT GAZETTE" (A).

Law 20, 1865.
 Meaning of "sale."
 Commencement

Law No. 19, 1872 (B).

"To repeal and re-enact with amendments the Laws in regard to Municipal Corporations."

[20th December, 1872.]

124. No transfer or mortgage shall be made of any immovable property situate in any borough, or passed before the Registrar of Deeds by any vendor, mortgagor, or his agent, who shall not also exhibit to the said Registrar, with the other necessary papers, a certificate of the payment of all rates due and payable in respect to the said property; and the Registrar shall duly enter a memorandum of the same in the public register.

Proof of payment of rates to precede transfer or mortgage.

Law No. 16, 1875.

"To repeal and re-enact, with amendments, the Law No. 21, 1866."

[17th December, 1875.]

WHEREAS it is expedient to repeal and re-enact, with amendments, the Law No. 21, 1866, entitled, "To amend the Ordinance No. 2, 1846, entitled, 'Ordinance for creating a Deeds' Registry Office for the District of Natal'":

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

1. The Law No. 21, 1866, aforesaid, shall be and the same is hereby repealed.

Repeal.

2. The several fees and charges following, and none other, shall be payable to the Registrar of Deeds on account of Her Majesty the Queen, her heirs and successors, for the uses of the Government of this Colony, in regard to the several following matters and things respectively, that is to say:—

Scale of fees and charges in Registrar of Deeds Office.

	£	s.	d.
For the registration of any deed of transfer, mortgage bond, deed of hypothecation, or lease	1	1	0
For the registration of every notarial bond or obligation in the name of each debtor and each surety, for each debtor and surety respectively	0	6	0
For the registration of every ante-nuptial contract, the same as payable on post-nuptial contracts	1	0	0
For a search of the books of transfer, debt registry, or any other search, for each name searched	0	2	6

(A) Aug. 29, 1865.

(B) See this Law in full, tit, "MUNICIPAL CORPORATIONS."

Law 16, 1875.

£ s. d.

For every registration, entry, or other act, to be made or done in the Deeds' Registry Office, not being any of the matters or things as aforesaid, or otherwise specified by law, but not including endorsements by the Registrar of Deeds on transfer and other deeds 0 4 6

Supreme Court empowered to make rules as to conveyancers' charges.

3. The Supreme Court shall be, and is hereby empowered from time to time to make such rules and regulations as may be deemed necessary or expedient as to the charges of conveyancers for the preparation, passing, and registration of deeds in the Deeds Registry Office, and as to the taxation of said charges, and as to the form and manner in which such deeds shall be prepared, registered and indexed: Provided, however, that nothing contained in this clause shall prevent the owner of any land who sold, or the agent who acted for him in effecting such sale, or who shall be duly authorised to execute and pass any mortgage thereon, to have such deeds as may be required for the purpose of transfer or conveyance, or of effecting any such mortgage, prepared and passed without employing a conveyancer, but such owner or agent shall in such case countersign such deed as prepared by him.

Seller or his agent may prepare deeds.

Duties of Registrar in passing deeds.

4. It shall be the duty of the Registrar of Deeds, before certifying any deed of transfer or mortgage bond as duly passed before him, carefully to examine the same, and satisfy himself that such deeds, if in duplicate, correspond with each other, and that they have been fairly and distinctly written, that the names, description, and residences of all persons, and the description and situation of all properties conveyed or mortgaged are correctly stated, that no erasures or interlineations of any consequence or importance shall have been made, and if made at all, that the initials of the conveyancer, or other person passing the act, shall be signed in the margin opposite to such erasure or interlineation, and that such deed shall in other respects be in good order and according to law.

Commencement

5. This Law shall take effect from and after the promulgation thereof in the "GOVERNMENT GAZETTE" after the passing thereof (A).

Law No. 11, 1881 (B).

"To provide for the Establishment and Local Management of Townships."

[20th December, 1881.]

Rate certificate for land situate in township.

48. No land situated in any Township under this Law shall be transferred by the Registrar of Deeds until a certificate shall be produced, signed by the chairman of the Local Board, setting forth that all past due rates and rents have been paid and satisfied.

Law No. 19, 1883.

"To amend Law No. 5, 1860."

[12th November, 1883.]

WHEREAS it is expedient to amend the Law No. 5, 1860, and to explain the meaning of certain clauses and Schedules of that Law:

(A) Feb. 8, 1876.

(B) See this Law in full, tit. "TOWNSHIPS."

BE IT THEREFORE ENACTED by the Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:— Law 19, 1883.

1. [Repealed by Law No. 5, 1890.]

2. Whenever any contract of sale and purchase of any property liable to any transfer duty shall be by mutual consent of both parties to the transaction cancelled or rescinded before conveyance of title has been made, but after a portion of the purchase-price or valuable consideration has been paid or given, then in such case the transfer duty shall be paid on such money or other valuable consideration only, as shall have been paid or given by the original purchaser to the original seller and the sale shall thereupon be cancelled: Provided always that no money or valuable consideration of any kind, beyond the refunding or repaying of the money or other valuable consideration by the original seller to the original purchaser, shall be paid by the one to the other for or in respect of or with a view to obtain this cancellation: And provided further that both parties to the transaction, or their agents, shall make and subscribe solemn declarations in substance as set forth in the Schedule hereunto annexed, marked A.

When sale cancelled before conveyance of title duty to be paid on portion of purchase money or other valuable consideration only paid or given.

3. The following words shall be expunged from the last paragraph of Clause No. 9 of Law 5, 1860:—"In case of a change of proprietors, otherwise than through the medium or by means of purchase and sale, the duty, as aforesaid, shall not be received until the donor or donee respectively shall have made and subscribed the Form of Declaration of donor set forth in Schedule No. 4, and Declaration of Donee set forth in Schedule No. 5, hereunto annexed"; and the following words substituted:—"In case of a change of proprietors, otherwise than through the medium or by means of purchase and sale, the duty as aforesaid shall not be received until the parties to such transaction shall have made and subscribed one or other of the Forms of Declaration set forth in the Schedules to the Law No. 5, 1860, or of those annexed to this Law, or to such other Declaration as may be demanded by the Registrar of Deeds as best suited to the requirements of the case.

Repeal of portion of sec. 9, Law 5, 1860, and substitution of alternative declarations, &c.

4. The Section 24 of the aforesaid Law No. 5, 1860, is hereby repealed, and the sub-section lettered (b) in Schedule No. 1, hereunto annexed substituted therefor.

Repeal of sec. 24, Law 5, 1860.

5. The Declaration marked B in Schedule No. 1 annexed hereto shall be used where property changes ownership under last will or "ab intestato."

Form of declaration where property conveyed under will or ab intestato.

6. The several Declarations required by either the Law No. 5, 1860, or by this Law, shall be in substance as near as possible to the forms given in the Schedules to these Laws, but where no Form of Declaration exists suited to any particular case, the Registrar of Deeds shall be entitled to demand, and make take a Declaration setting forth the facts of the case, and containing any further information he may deem necessary in the premises.

Where no suitable form of declaration provided, Registrar of Deeds may demand special form.

7. Schedule No. 1 to the Law 5, 1860, shall be altered and amended as hereunder in Schedule No. 1.

Sched. No. 1, Law 5, 1860, amended, Repeals.

8. Sub-sections D and I of Schedule No. 1 of Law No. 5, 1860, shall be and are hereby cancelled and repealed.

9. This Law shall commence and take effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (A), and shall be used for all purposes of or transactions connected with any lands or immovable property, titles to which have not actually been conveyed at the passing hereof.

Commencement

Law 19, 1883.

Schedule of
exemptions
from payment
of transfer duty.

SCHEDULE No. 1.

- (a) No duty shall be payable on the purchase of Crown Land from the Government of Natal.
- (b) No surviving spouse shall be chargeable with any transfer duty on any immovable property inherited, bequeathed, or becoming his or hers, from the estate of his or her deceased spouse, whether under testamentary disposition or "ab intestato," nor upon purchasing, taking over by appraisal, or any other mode of acquiring any of the immovable property belonging or appertaining to the estate of the deceased spouse. And every such surviving spouse shall have his or her share of any immovable property held in community, transferred to and registered in his or her own name, without the payment of any duty.
- (c) No duty shall be payable on any lands given and taken in exchange between neighbouring proprietors for the sole purpose of straightening or equalising their lines or boundaries, or the better to occupy and utilise their respective properties, provided that the lands thus exchanged shall form portions of properties which are conjoined, and shall be of equal value on either side, and that a sworn valuation of the respective values of the lands thus exchanged shall be made by some disinterested person at the instance and expense of the parties making the exchange, and be filed with the Registrar of Deeds. In the event of the lands exchanged being of greater value on the one side than on the other, Transfer Duty shall be paid on the difference, and declarations thereof filed in the usual way.
- (d) No duty shall be payable on any immovable property placed or vested in a trustee or trustees by a parent for the benefit of his or her child or children, nor on any such property given by a parent during his or her lifetime, to any of his or her children, nor on any property devolving on any child or children from the estate of his, her, or their parents (A): Provided that no valuable consideration other than natural love or affection shall be given to or taken by the parent of such child or children for or in respect of these gifts (B).
- (e) In every case of voluntary or compulsory partition between joint owners of immovable property held by them in equal or unequal undivided shares, and whether in or over one or more pieces of property, or included within or under one or more titles, and appearing as such in the records of the Deeds Registry, all changes in the records of the said Deeds Registry required for the due registration of the separate shares to be held by each in severalty under separate title, shall be made without the payment of any duty (c): Provided always that each partner

(A) See Law 5, 1860, Sched. I (G), ante.

(B) Land bequeathed by a father to his sons charged with payment of a debt, held to come within this sec. and not to be liable to duty (*In re Hatting*, 13 N.L.R. 123), following *In re Watson*, 6 N.L.R. 259. See also *In re Vanderplank*, 19 N.L.R. 138, where the authorities are collected, and *In re Coakes*, 19 N.L.R. 143.

(c) This does not apply to a division between spouses of land held by the

husband of a marriage in community, where the community has been destroyed by post-nuptial contract under Law 22, 1863, there being in such case no registered joint ownership (*In re Doran*, 6 N.L.R. 240).

Where, on partition, there is to be a change in the registered proportions, the transfer does not come within this exemption clause (*In re Kuhr's Estate*, 7 N.L.R. 122).

or owner shall be entitled to claim exemption only on the proportion of the whole value of land owned by him in the property or several properties as the case may be, and provided further that the several owners shall make and subscribe to a solemn declaration in substance as in the Schedule hereunto annexed marked C. Law 19, 1883.
Schedules.

[A.]

Declaration where sale and purchase have been cancelled after payment of a part of purchase price (A).

I, _____ of _____ do solemnly and sincerely declare that the sum of £ _____ is the full and entire amount for which _____ the piece of land, in extent _____ situate and being the _____

_____ of _____ and _____ declare that the said _____ took place on the _____ day of _____, in the year 18 _____, and not before.

And _____ do further declare that the said _____ the sum or value of £ _____ for or in respect of the _____ price of this land, but that by mutual consent the aforesaid sale and purchase have been rescinded and cancelled, and the aforesaid sum or value of £ _____ has been returned and refunded _____ the said _____

And _____ further declare that _____ have not given, paid, or received, nor _____ or anyone on _____ behalf to give, pay, or receive to or from the said _____ or anyone on _____ behalf, any valuable consideration other than that above-named, for or in reference to the cancellation of the said sale.

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

Declared at _____ this _____ day of _____
Before me _____

[B.]

Declaration to be made for lands conveyed under a Will or ab intestato (B).

I, _____ of _____ do solemnly and sincerely declare that _____ to receive from the Estate of _____ (under his, her, or their will, bearing date _____, or ab intestato), a certain piece of land, in extent _____ acres, situate and being _____

That the full value of the said land is £ _____ .
That no valuable consideration of any sort whatsoever has been, or is to be given or received by or to either party for or in respect of the alienation to me of this property from the said Estate. And I make this solemn declaration, conscientiously believing the same to be true.

Declared at _____ this _____ day of _____
Before me, _____

(A) See sec. 2, ante.

(B) See sec. 5, ante.

Law 19, 1883.

[C.]

Schedule.

Declaration for Purchasers or joint owners when dividing property amongst themselves under separate shares and titles (A).

We,
do solemnly and sincerely declare that we are the registered owners in conjoint undivided () shares of following pieces of immovable property, namely,—

And we further declare that we have mutually agreed and resolved to divide this land, each of us taking his share under separate title, as follows:—

And we further declare that we have not, nor has anyone paid or given, nor are we, nor is anyone on our behalf to pay or give to either of us any valuable consideration whatever in respect of this division between us of before-mentioned property. And we make this solemn declaration, conscientiously believing the same to be true.

Declared at this day of
Before me,

Law No. 19, 1884.

“To amend in certain respects the Law and Practice in reference to Registration.”

[3rd November, 1884.]

WHEREAS it is expedient to amend the Law in reference to Registration:

BE IT THEREFORE ENACTED by the Governor of the Colony of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

Repeal of Laws.

1. The Laws No. 10, 1863, and No. 7, 1864, are hereby repealed: Provided always, that such repeal shall not affect any rights or liabilities existing under the said respective Laws when this Law shall have come into operation.

Registration of lease.

2. Any Lease shall be capable of registration whether it shall be executed before the Registrar or the due execution thereof shall be shown to the Registrar's satisfaction, or when registration shall be ordered or authorised by the Supreme Court, or any Judge thereof, or any Circuit Court having jurisdiction in respect of the property: Provided always, that if any Lease be derived or carved (b) from out of any other Lease to be made after this Law shall have come into operation, such derived Lease shall not be capable of registration unless and until such other Lease shall have been registered.

When registration of lease requisite for sub-leases registration.

Mortgage of unregistered lease.

3. Any mortgage of any Lease not then registered to be made after this Law shall have come into operation, shall have no greater effect than if such mortgage were only a general mortgage (c).

Mortgage of title deed of lease.

4. Any mortgage of any title deed of a lease shall have no greater effect than if the interest in the lease were freehold in nature (d).

(A) See Schedule No. 1, sub-s. (e), ante.

(c) See Law 47, 1887, s. 122, tit. “INSOLVENCY.”

(B) As to what is a “derived” or “carved” lease, see judgment of Wragg, J., in *In re Crozier, ex parte Henderson*, 14 N.L.R. 125.

(D) See the Law on this head stated by Connor, C. J., in *Easterbrook's Trustees v. McNeil*, 4 N.L.R. 119.

5. There shall be payable to the Revenue in respect of registration under this Law of any lease (A), dues by the way of transfer dues at the rate of two per cent. on one-third of the sum total of the rent for each year of the lease, whether or not such year have occurred before such registration: Provided always, that if the rent reserved in, or by, any lease be not uniform or not the same for every year, there shall be taken for the calculation of such percentage the average yearly rent during the first one-third of the lease period, fractions for such purpose being counted as integers against the leaseholders: Provided also, that such percentage shall not be chargeable in respect of the registration of any cession of a registered lease, such registration of cession being subject, by way of transfer dues, to and only to a registration charge of ten shillings, save as provided by the seventh section hereof.

Law 19, 1884.
Transfer dues.

6. Fees payable to the Registrar in respect of mortgages on registered leases shall be the same as those payable for the time being in respect of mortgages of freeholds.

Mortgage fees.

7. Where any fine, or purchase price, or money, or money's worth, shall be paid or payable, or allowed or to be allowed or the like for, or in respect of the making of any lease or of any first or subsequent cession or assignment of any interest in any lease or sub-lease there shall, in addition to any sums payable upon or for registration under this Law, be payable by the leaseholders whether there shall or shall not be such or any registration in the office of the Registrar of Deeds, a duty of four per cent. (B) upon the amount of such fine, price, or money or money's worth, and the provisions of the several sections of the Law No. 5, 1860, hereinafter specified, shall be, as nearly as may be, respectively applicable to and in respect of, or in any way in reference to the duty by this section made payable, that is to say—sections eight, nine (save as to donations), ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen (save as to change of proprietors), eighteen, twenty-two, and twenty-three: Provided always, that for the purpose of so applying the said Law No. 5, 1860, the terms used therein, connected with purchase and sale and transfer respectively may be supplied by terms more properly applicable to leasing or sub-leasing or ceding or assigning or registering as the case may be.

Transfer dues on leases with fines.

8. Nothing in this Law contained shall be held to give to any mortgage or lease any greater effect as against lessors or their mortgagees than it would have under the general law of the Colony.

Mortgages and leases not increased in validity.

9. The Registrar may from time to time, subject to the provision of this Law, and with the allowance and approval of the Governor in Executive Council, frame and issue rules for the better regulation of registration, whether or not taking place under this Law, and may in like manner alter, repeal, or add to any such rules: Provided always, that till any rules shall be made hereunder to other effect, the rules or practice now, or for the time being, prevailing in the Registrar's Office as to form of registration in respect of freeholds and mortgages thereon shall apply as nearly as may be to registrations under this Law.

Registration rules.

10. Nothing in this Law shall be deemed to lessen the power of the Supreme Court or any Judge thereof or any Circuit Court in respect of registration.

Power of Court as to registration.

11. The following words shall, save when the context otherwise requires, respectively mean, refer to, or include as follows:—

Interpretation.

“Registrar” shall mean the Registrar of Deeds for this Colony.

(A) See *In re Parker*, 11 N.L.R. 245.

(B) Reduced to two per cent. by Law 6, 1891, post.

Law 19, 1884.

“Register,” “Registration,” “Unregistered” and the various forms of these words respectively shall refer to entry or non-entry as the case may be, in any Book, List, File, or the like, proper for such entry in the office of such Registrar.

“Mortgage” shall include any pledge or hypothec or charge, or deposit or Mortgage Bond.

“Lease” shall include any sub-lease whether or not immediately derived from any other lease.

Commencement

12. This Law shall come into operation from and after the promulgation thereof in the “NATAL GOVERNMENT GAZETTE” (A).

Law No. 39, 1888.

“To remedy defects in Surveys of Land.”

[10th December, 1888.]

WHEREAS it is expedient, in order to prevent litigation and expense, and also to remove doubts which may in certain cases arise when, upon the re-survey of lands already granted, the same may be found to be of greater or lesser extent than the title deeds purport to convey, or otherwise to vary from the diagram annexed to the title deeds, or when the land described in one grant may be found to infringe upon or to overlap any adjoining grant, to make provision for the speedy and effectual adjustment of such questions:

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

Fact of error in survey may be submitted by memorial to Governor.

1. Whenever, upon re-survey of any land by any licensed land surveyor, it shall be found that any error exists in the original survey or surveys of such land, it shall be competent for the owner or owners thereof, to submit the facts of the case by memorial to the Governor, and if such land shall have been attached, under a judgment of any competent Court, for the redemption of any amount due on mortgage, the mortgagee, or mortgagees, shall be held to be so far in a position of ownership as to be entitled to present such memorial, and to do any other acts which under this Law, an owner may legally do.

Memorial to be accompanied by certificate and plan.

2. Every such memorial must be accompanied and supported by the certificate of a licensed land surveyor, to the effect that the existing diagram is incorrect, and is not a true delineation of existing beacons, or of the position in which it is alleged that beacons ought to exist; and the skeleton plan must be annexed to said certificate, showing the position in which it is alleged that beacons ought to be, and also the positions of any beacons that may be in dispute, and the position in which the diagram, alleged to be incorrect, would place any or all such beacons.

Documents to be referred to Surveyor General to test accuracy of new survey.

3. The Governor shall cause such memorial and documents to be referred to the Surveyor-General, or other licensed Surveyor, whose duty it will be thereupon to ascertain, from inspection of the plan, the field-book, and the computations of the Surveyor, mentioned in clause 1 of this Law, and from inspection of, and comparison with, any existing general plan, whether a probability of error in the original diagram exists; and, if so, he shall proceed to establish by tests locally applied the accuracy of the new survey, and to cause any inaccuracy

(A) Nov. 4, 1884.

he may discover to be forthwith corrected under his inspection by such surveyor: Provided that no person shall be appointed to test the accuracy of any such survey of land, the original survey of which was made by such person. The Governor shall then instruct the Surveyor-General to ascertain whether every proprietor, lessee, and mortgagee of adjoining property, or their lawful agents, have certified in writing, duly attested, their consent that existing beacons shall be maintained, and shall then return the memorial and annexures to the Governor, with a report thereon, embodying the result of his proceedings.

4. When, on application for the amendment of an incorrect diagram, the owners, lessees, and mortgagees of adjoining lands, or the lawful agents of such owners, lessees, and mortgagees, do not either assent to or dissent from the recognition of existing beacons, it shall be the duty of the Surveyor-General to notify in the "GOVERNMENT GAZETTE" and also when the domiciles of the owners, lessees, and mortgagees, or their agents, are known, by letter, that if within three months, in case such owners, lessees, mortgagees, or agents, all reside in the Colony, or within twelve months, if one or more of them reside out of the Colony, no intimation shall have been received of their dissent from the adoption of existing beacons, for the purpose stated; or if, notifying their dissent, they shall fail to appear in person or by agent, within the prescribed period, to set forth at his (the Surveyor-General's) office the reasons of such dissent, and to be then ready to substantiate such reasons, if called before any local tribunal, they will be held to have given their assent, or to have waived all reasons of dissent, and after the lapse of the time notified, the Surveyor-General shall proceed in the same manner, as if the consent had been actually expressed.

If mortgagees and owners of adjoining lands neither assent or dissent to existing beacons Surveyor General to notify a date after which he will proceed.

5. On receiving the report of the Surveyor-General that error exists in the original diagram, that the rectification will be in accordance with the consent so expressed or implied as before said of all parties concerned, and that the work of the new measurement has been accurately performed, the Governor shall be, and he is hereby, empowered to direct the Surveyor-General to amend the title deed accordingly, and to substitute a new or corrected plan and title deed for that found to be erroneous.

Rectification of plan and title deed.

6. When, from the memorial and certificate referred to in the 1st and 2nd clauses, it shall appear that the original diagrams of any number of adjoining grants and farms do not agree with the existing beacons, and that the owners of the said lands, or their agents, are desirous of having a re-distribution of the lands, without reference to any evidence as to the positions in which the beacons ought on the original surveys to have been placed, but solely in accordance with agreement between themselves as to the beacons and boundaries, it shall be the duty of the Surveyor-General, or other Surveyor, as provided in clause 3 of this Law, to ascertain by the process described in such 3rd clause, whether a probability of existing error is shown; and if such probability exist, to test the accuracy of the new surveys, and, this being proved, or any inaccuracy in them being amended, then, as set forth in the same section, to ascertain whether the consent of every owner, lessee, and mortgagee of the lands referred to, or affected by the proposed re-distribution of the land, has been given to such re-distribution; and in the event of such consent on the part of all persons interested being established, to return the memorial and annexures, with his report of the above facts, to the Governor; and the Governor shall be, and he is hereby authorised, thereupon to direct the original title deeds to be cancelled, and new titles to be issued, in conformity with the divisions and beacons marking the re-distribution of the lands, in accordance with the agreement of the parties interested.

Procedure for re-distribution of lands, by consent, where diagrams disagree with existing beacons.

Law 39, 1888.

In case of dissent notification to be made that Governor will be moved to cause matter to be decided by a Board of Arbitrators.

7. Whenever, on an application made by memorial for the amendment of an incorrect diagram, it shall be stated in such memorial, or shall otherwise be known, that any owner, lessee, or mortgagee or his agent, refuses to admit the existence of the alleged error, or dissents from the amendment of the diagram, or from the adoption, for the purpose of amended diagram, of any beacon or beacons claimed by the applicant, it shall be the duty of the Surveyor-General, by notice in the "GOVERNMENT GAZETTE," and also, if the domiciles are known, by letter, to acquaint all owners, lessees, and mortgagees of adjoining property, or their agents, that within three months (if all such interested parties are resident in the Colony), or within six months (if any of them reside out of the Colony), the Governor will be moved to cause a decision in regard to the matters in dispute to be given by the Board of Arbitrators hereinafter provided for; and that it will be incumbent on them, either personally or by agent, to attend at the office of the Surveyor-General within the aforesaid period of three or six months, as the case may be, for the purpose of affording information as to the place within the Colony at which any notice may be served upon them, calling on them to appear before the said Board of Arbitrators for the purpose of offering or rebutting any evidence on which such decision may be founded, and also for the purpose of naming any witnesses whom they may require to substantiate their claims and allegations; and that, failing so to attend, they will be held to have waived all objection to the proceedings, the evidence, and the decision that may be given thereon.

Appointment of Board of Arbitrators.

8. After the lapse of the period of three or six months prescribed in the notice in the preceding section mentioned, the Governor shall be, and he is hereby, empowered, to appoint a Board, to whom the question of such correction shall be referred. Such Board shall be styled a Board of Arbitrators.

Attorney may be appointed to advise the Board.

9. In any proceedings under this Law the Governor may appoint an Advocate or Attorney to give his advice to the Board on any question asked or submitted to him by the said Board, and to give the Board such assistance as it may require from him in framing its report. The payment to such Advocate or Attorney shall be a charge against the general revenue of the Colony.

Constitution of Board.

10. This Board shall consist of three landed proprietors, resident in the Colony, not interested in the matters in dispute, not related within the third degree of consanguinity or affinity to any of the disputants, and not holding any official position under the Government of the Colony other than that of Justice of the Peace, Field Cornet, or Field Commandant.

Notification of appointment and meeting of Board.

11. The Governor shall cause to be notified, in the "GOVERNMENT GAZETTE," the names of the persons appointed by him to form the Board of Arbitrators, and the place and date at which the Board shall meet, such date to be determined by information to be afforded by the Surveyor-General as to the time required for duly summoning parties interested, and their witnesses.

List of persons to be summoned to be transmitted to the Magistrate.

12. It will be the duty of the Surveyor-General to transmit to the Resident Magistrate of the county or division in which the lands, the boundaries of which are in dispute, are situate; or if they be partly in one county and partly in another, then to the Magistrate whose seat of Magistracy is nearest; a list of the owners of land, lessees, mortgagees, agents, or witnesses who are to be summoned to attend at the meeting of the Board of Arbitrators, together with the information as to the place where summons is in each case to be served.

Issue and service of summons.

13. The Magistrate shall cause a summons to be prepared by the clerk of his Court, calling on each of the persons referred to in the

preceding section to attend at the time and place appointed for the meeting of the Board; and such summons shall be served by the same process as that for procuring the attendance of a witness to give evidence in any criminal case before the Court of the Resident Magistrate. Returns of such service of summons shall be forwarded by the Magistrate to the Chairman of the Board of Arbitrators. Law 39, 1888.

14. Every Arbitrator appointed under this Law shall receive an allowance not exceeding twenty-five shillings per day, for every day during which he shall be really and "bona fide" engaged in any such enquiry, as aforesaid, or in repairing to or returning from the place or places where the same shall have been carried on: Provided that such allowance shall include horse hire, and shall form a part of the costs between parties in any proceedings before the Board. Daily allowance to arbitrators.

15. The Governor shall cause to be forwarded to the Board of Arbitrators the memorial upon which such question arose, together with all annexures thereto, and the report of the Surveyor-General thereon, and also all such documentary evidence as the records of the Surveyor-General's Office can supply respecting the disputed survey. Documents to be sent to the Board.

16. It shall be lawful for the parties to any dispute which shall be brought before a Board of Arbitrators under the provisions of this Law, if all the parties shall so agree, to enter together into a written agreement that the award or decision of such Board of Arbitrators shall in all respects, both as to the subject matter of the dispute and as to costs, be final and conclusive and binding upon all the parties. And whenever such an agreement shall have been entered into as aforesaid, the award or decision of the said Board of Arbitrators shall be final and shall bind the parties, and shall be subject to no appeal from, or alteration by, any Court or Judge. Parties may agree that the Board's decision shall be final.

17. At the time and place appointed by the Governor the said Arbitrators shall assemble, and shall elect one of their own number to be Chairman of the Board; and the Chairman so chosen shall, before the said Arbitrators proceed to any other business, take, in the presence of the other Arbitrators and of the bystanders, the following oath, that is to say:— Meeting of Board.

I do solemnly swear that I will, to the best of my skill and knowledge, and without fear, favour, or prejudice, enquire into and decide all matters which this Board of Arbitrators has been appointed to enquire into and decide. Oath.

So help me God!

And the Chairman shall then administer the same oath, "mutatis mutandis," to the other two Arbitrators, and the taking of the said oath by the Arbitrators shall be entered upon the minutes of their proceedings. Chairman.

18. It shall be lawful for any such Board of Arbitrators to adjourn any enquiry, or the further proceedings thereupon, from place to place, or from time to time, as convenience may require; and such Arbitrators may, by any writing, signed by the three of them, depute any two of them to take, in writing, the evidence of any person or persons named or described in such writing; in order that such evidence may be received and considered at the next meeting of the said Board of Arbitrators. Adjournment.

19. The Arbitrators shall, when adjourning any enquiry pending before them, announce the place, day, and hour of their next intended meeting; and should they, during the adjournment, find reason to alter their announced intention, they shall cause notice to be given to all parties who were present at the last preceding meeting, of the change of place, day, or hour, of such next meeting. Notice of adjourned meeting.

Law 39, 1888.

Quorum.

20. Any two of the said Arbitrators shall form a quorum, and shall be competent to exercise all and every the powers and authorities hereinafter committed and granted to the said Board; and every decision and act of such quorum shall be deemed and taken to be the decision and act of the whole Board; and whenever at any meeting of the said Board, at which only two Arbitrators shall be present, they shall be equally divided in opinion on any matter or thing, the decision thereof shall be postponed until a subsequent meeting of the said Board, at which all the members thereof shall be present.

Proceedings to be with open doors.

21. The proceedings of every such Board shall be carried on, and the decisions and orders thereof pronounced and declared with open doors.

Secretary.

22. The Advocate or Attorney appointed under this Law shall be the Secretary of the Board.

Notice of any announcement by the Board to parties.

23. In any case in which it shall be necessary or advisable for the Board to make any announcement or notification to any party or parties interested in the matter or dispute, such announcement or notification shall be made by a notice under the hand of the Secretary of the Board, which notice may be served upon the person to whom it is addressed, either personally or by delivery, or by posting the same in an official letter; and such notice, if served by post, shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of post; and in proving such service it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the Post Office.

Attendance of witnesses.

24. Every such Board of Arbitrators shall be, and they are hereby empowered if need be, by summons, to be issued by direction of the Resident Magistrate, as provided by Clause 13, to require the attendance of all such persons as shall appear to them to possess useful information, and whom they may think fit to examine regarding any matter referred to such Board, under the provisions of this Law, and also to require such witnesses to bring with them and produce such papers or documents as shall be in their possession, custody, or power, and may be deemed necessary, and to administer oaths to all witnesses so summoned, and to all other persons who shall come or be before the said Arbitrators, and whom they shall think fit to examine.

Defaulting witnesses.

25. Any person, without lawful cause, disobeying any such summons, or refusing to answer any lawful question put to him by the said Arbitrators, or any of them, shall, upon conviction, incur a fine not exceeding Forty Shillings Sterling. It shall however be lawful for any witness to refuse to give evidence unless his lawful expenses be tendered to him.

Payment of witnesses' expenses.

26. Every witness attending before any Board of Arbitrators, in pursuance of any such summons as aforesaid, shall (except as hereinafter is excepted) be allowed and paid his expenses at the same rate precisely as if he had attended at the same place in pursuance of the process of any such Court as in the 13th Clause mentioned, issued at the instance of the Public Prosecutor. A certified bill of expenses, signed by any two of the Arbitrators, shall, on the application of any person being a party in the case, and at whose instance or on whose behalf any witness or witnesses shall have been summoned, or shall have given evidence, be delivered to such party or his agent, and shall set forth that such witness or witnesses attended in pursuance of a summons, or, if not summoned, that his, or their evidence was necessary; and the certificate of the bill of expenses shall state that the time and distance charged therein are correct; and the Board, on arriving at their decision, shall have power to award by which of the parties, and in what proportions, such expenses, as well as all other necessary

expenses incurred by the disputing party, or parties, shall be borne: Provided always that any of the parties feeling aggrieved by any such award or order as to costs or expenses may, upon such ground alone, petition the Supreme Court against the decision of the Board of Arbitrators in manner hereinafter provided: Provided also that no allowance shall be made by the Board for costs to Attorneys and Advocates employed as such: Provided also, that all expenses incurred by the Government, for any purpose whatever, in any case submitted for arbitration under the provisions of this Law, shall be paid out of the Public Treasury.

Law 39, 1888.
Petition to
Supreme Court.

27. It shall and may be lawful for the said Arbitrators to disallow the expenses of any witness summoned before them, who shall prevaricate or otherwise misconduct himself in the course of his examination.

Disallowance of
witnesses'
expenses.

28. If any person sworn by or before such Arbitrators as aforesaid shall wilfully make any false answer to any lawful question which shall be put to him, such person shall be deemed guilty of the crime of perjury, and, on conviction thereof, shall suffer the punishment by law provided for the said crime.

False evidence.

29. Every such Board of Arbitrators, in arriving at a decision upon any case referred to them under this Law, will consider the particular circumstances thereof, but they must, so far as possible, be guided by the general principles prescribed in the seven following clauses:—

General prin-
ciples for guid-
ance of Board.

30. The beacons of farms pointed out at the original survey the position of which has been proved to the satisfaction of the Board of Arbitrators, are to be deemed to denote and to include the true and proper farms as granted and intended so to be, notwithstanding that such beacons may not correspond with the original diagrams, or with the extents of land which the original diagrams purport to grant.

Original
beacons to
denote the true
farm.

31. As often as it may be found that any land included within the original beacons of an older grant has afterwards been included within the diagram and beacons, or the diagram or beacons of a later grant, the right of the older grant to the overlap shall be recognised; unless it shall be proved that the beacons or landmarks taken for the later survey were recognised or pointed out for the purpose of the later survey by the grantee of the land first measured, or that the error of the overlap has resulted from the omission of some act on the part of the grantee of the first grant, which it was lawfully his duty to have done, in respect to the erection of beacons or otherwise.

In the case of
overlap, the
older grant to
be recognized.

Exception.

32. Whenever it shall be shown to the satisfaction of the Board of Arbitrators that in the case of two adjoining grants one farm has an excess of area whilst the other has a deficiency in area, and that the excess in the one case has at some time formed what is now the deficiency in the other, the said Board shall have the power to award the excess to the owner of the farm which is deficient in area, or to award that the owner of the farm which has the excessive area shall pay to the owner of the farm which is deficient in area compensation at a fair and just price per acre, to be fixed by the said Board.

Corresponding
excess and
deficiency in
adjoining
grants.

33. As often as it may be found that any buildings have, previous to the time of the commencement of proceedings, been erroneously or wrongfully erected upon land which by the decision of the said Board of Arbitrators is ascertained to form a part of the farm adjoining that upon which such buildings had by the owner been claimed to belong, the said Board shall have the power to adjudge so much of the land upon which the said buildings are erected as the said Board may consider necessary or proper to the farm upon which the buildings had been so claimed to belong, upon payment by the owner thereof to the owner of the adjoining farm of a fair and just price per acre, to be fixed by the said Board.

Adjustment to
meet the case of
buildings
erected on
wrong land.

Law 39, 1888.

And of buildings commenced *bona fide* and completed without notice by owner of land infringed upon.

34. If there shall be any building erected on any land adjudged to be illegally overlapping, then, if before such building was commenced it shall appear that it was so commenced "*bona fide*," and suffered to be completed without notice by, or on the part of, the owner of the land infringed upon, that such building was being made on land, his property, then so much of the land as the said Board may determine to be needed and requisite for the due use and occupation of the said buildings, and the building thereon, shall be adjudged to be the property of the person who so, "*bona fide*," and without notice to the contrary, built upon the same, upon payment by the owner of the house to the owner of the land so adjudged to the owner of the house fair and just compensation for the land so adjudged to him: Provided always, that if it shall appear that, in erecting such building, the person in erecting the same was not acting "*bona fide*," or if before commencing the same, or at any time during the progress of such building, he shall have had notice that the land so being built upon was claimed by an adjoining grantee or proprietor, then the person so erecting such building shall not be deemed entitled to the land on which the same was erected, and adjudged to be illegally overlapping, but shall be entitled to remove the materials of which such building may be made, in every case in which the owner of the land shall refuse to pay the price of such materials together with the expense attending the erection of such building.

Correspondence of beacons with original diagrams.

35. Whenever beacons may be in dispute, and one set of beacons accord with the existing original diagram, it shall, in the absence of any evidence that such accordance has resulted from the acts of a Surveyor subsequently employed, be deemed and taken to be proof that the beacons corresponding with the diagram must have been those indicated by the Surveyor to the grantee, and ought to be maintained.

Grants or sales upon a defective diagram without distinct beacons.

36. In cases in which it may have occurred that land has been granted or sold by the Government upon a diagram, and that no distinct beacons were in existence and pointed out to the proprietor (the purchaser or grantee), and that the defect of the diagram renders it impracticable to place beacons in conformity with topographical features which the diagram professes to indicate, such diagram may and ought to be discarded; and an extent as nearly as practicable of equal area is to be assigned to the holder of the title in such position as may be found justly to consist with the interests of the Crown, of the holder of the title, and of proprietors, if any, of adjoining lands.

Powers of Board in respect of rights to water.

37. Every Board of Arbitrators shall, in any matter referred to it under the provisions of this Law, have the power to determine and define the rights of the parties to any water in any stream or river, or derived from any spring, dam, or reservoir in any land the ownership of which shall be changed by the decision of the Board, and for that purpose have the power to specify the manner in which the water shall be conveyed; to award the amount of compensation, if any, to be paid for the possession and exercise of the right of the passage of the water, in one sum, or by way of annual rent charge.

Decision may be given by two members.

38. The decision of any such Board of Arbitrators may be given by any two of such Board, notwithstanding the dissent of the third member thereof.

Proceedings to be deposited in office of Magistrate.

39. Such decision shall be embodied in a written report, which shall be duly attested, and, together with the minutes of proceedings and evidence adduced, shall be deposited in the office of the Resident Magistrate, by whose direction the witnesses in the case have been summoned; and the Resident Magistrate shall notify, in the "**GOVERNMENT GAZETTE**," that, unless, within a period to be defined in the notice, such period to be not less than one month, nor to exceed three months, proceedings shall have been instituted for appealing

Time for appeal.

against such decision, it will become final and conclusive: Provided, however, that where any of the parties interested reside out of the Colony extension of the period within which proceedings for appeal may be instituted may be granted by the Supreme Court, or any Circuit Court, or a Judge in Chambers, on application to that effect being made by the agent of any such parties, to a period not exceeding six months from the date of the first notification in the "GOVERNMENT GAZETTE" aforesaid, and provided such application for extension be made within fourteen days from the date of such notification.

Law 39, 1888.
Extension of time.

40. During the period specified in such notice the decision and the minutes shall be open to inspection by any person who may desire and apply to the Resident Magistrate for leave to inspect the same, and a copy of said decision shall, within one week after the deposit thereof in the Resident Magistrate's Office, be forwarded by the Resident Magistrate to the Surveyor-General, for the information of any person who may desire to inspect it.

Proceedings open to inspection.

41. When the Board of Arbitrators shall have given a decision for the amendment of any diagram, in conformity with beacons held by them to be true and just demarcations of property, and when no petition shall have been presented to the Supreme Court in manner hereinafter mentioned, such decision shall, upon the expiry of the time allowed for filing such petition, become and be final, binding, and conclusive, and such decision and the minutes of proceedings upon which the same is based shall be forwarded to and deposited and filed in the office of the Surveyor-General of the Colony, who, upon receipt thereof, shall forward such decision to the Governor, and shall report what amendments of original title deeds, plans, diagrams, deeds of transfer, and other records, such decision will necessitate, and the Governor shall be, and he is hereby authorised and empowered to direct that such amendments shall thereupon be made accordingly.

When no petition to Supreme Court, decision to be final.

42. Upon the issue of any fresh title-deed, all existing title-deeds or transfer-deeds of the same farm shall become cancelled, void, and of no effect: Provided that as often as any mortgage bond or hypothecation, conventional or tacit, of or over any farm so re-granted, shall be in existence at the date of any such fresh title-deed, such mortgage bond or hypothecation shall attach to and upon the said farm as so re-granted precisely as it existed upon the said farm under its former title-deed or transfer-deed, and all usual and proper entries and endorsements upon or in regard to such fresh title-deed as may be necessary to record any mortgage-bond or hypothecation of the land therein contained, shall be made in the Deeds Registry of the Colony, before such fresh title-deed shall be delivered from and out of the Office of the Surveyor-General to the person or persons entitled thereto, free from all Stamp Duties and Fees of Office.

On issue of fresh deeds, existing deeds cancelled.
Hypothecs, &c., not affected.

Registration of endorsements.

43. It shall be lawful for any person whom such decision shall or may concern, at any time within the period specified in such notice as aforesaid, to present a petition to the Supreme Court, stating that he feels aggrieved by such decision, and praying the said Court to inquire into and correct the same, and notice of such petition having been lodged shall be given to the Resident Magistrate in whose office the written decision shall have been deposited not later than fourteen days from and after the day of presentation thereof: Provided that any number of persons having the same or a similar interest in opposing such decision, may join in petitioning for the correction of the same: Provided also, that it shall be the duty of the Surveyor-General, or other officer appointed by the Governor, to watch the proceedings at every stage, and to intervene, without notice or summons specially served on him, on behalf of the interests of the Government.

Petition to Supreme Court against Board's decision.

Surveyor General to intervene on behalf of Government.

Law 39, 1888.

Proceedings to be transmitted to Registrar of Supreme Court.

44. The said Resident Magistrate, upon receiving notice as aforesaid that a petition has been lodged, shall with convenient speed transmit to the Supreme Court, addressed to the Registrar thereof, the proceedings of the Board upon the subject of the decision petitioned against, and all evidence, documentary or other, and all remarks received by the said Board from the Arbitrators, or any of them.

Motion in Supreme Court for a rule to show cause.

45. It shall be lawful for the petitioner, at any time within the period specified in the notice provided for in Clause 38, to move the Supreme Court, without notice, for a rule to show cause why the decision complained of should not be reviewed, for the purpose of being corrected, and why the petitioner should not be adjudged to be entitled to make good his right to such specific relief as shall be set forth in such rule; and the said Court, as may to justice appertain, shall grant or refuse such rule.

Service of rule upon parties.

46. Should the said Court see fit to grant such rule as aforesaid, it shall be served upon all such persons as the Court shall direct, and shall be returnable upon such days as the Court shall appoint, and upon such day it shall be lawful for the parties served with the same, or any of them, to appear, and upon affidavit or otherwise to show cause against such rule, and thereupon such rule shall be discharged, or amended, or made absolute, as to the said Court shall seem meet.

Procedure for further investigation may be directed by Court.

47. In case the said Court shall make such rule absolute or amended as aforesaid a rule of Court, then the said Court shall direct the manner in which the matter in controversy between the applicants and the respondents shall be further investigated, and may take additional evidence, either "viva voce" or by affidavit, or may order an examination before a Commissioner appointed by such Court, and upon interrogatories framed or approved of by such Court, or may direct a Commissioner likewise so appointed to inspect the farms in question and take evidence upon the spot, and such Court shall decide whether the decision in question shall or shall not be affirmed wholly or in part.

If rule refused or discharged, Board's decision to become final.

48. As often as the Supreme Court shall refuse a rule to show cause as aforesaid, or having granted such rule shall afterwards discharge the same, or having made such rule absolute, shall ultimately affirm the decision petitioned against, then such decision shall become and be thenceforward final, binding, and conclusive.

Court may fix proper position of beacons.

49. If in any case the Supreme Court shall see fit to correct any decision petitioned against, then the said Court shall fix by its judgment the proper position of all beacons connected with the case, and may delegate to such fit and proper person or persons as the said Court shall select the duty of placing the said beacons.

Reduction or increase of quit-rent when land found to be of less or greater acreage.

50. When the extent of land between recognised beacons, the position of which has been confirmed by the decision of the Arbitrators, or of the Supreme Court, shall be found to be less than the extent named in the original title, the Arbitrators or the Supreme Court shall award a proportional reduction of the quit-rent from the date of the said discovery of such deficiency; and when the extent of land between the said beacons shall be found to be greater than the extent named in the original title, such land shall not be reduced in extent, but shall be charged with an increase in quit-rent proportionate to the excess in extent so found, from the date of such excess being discovered: Provided always, that any party who may have to pay or receive such compensation as aforesaid may, upon such ground alone, petition the Supreme Court against the decision of the Board of Arbitrators, in manner hereinbefore enacted.

Owners to keep up beacons erected by order of Board or Supreme Court.

51. From and after the taking effect of this Law, the owner or owners of every farm respecting which a decision shall have been given under this Law, shall be at all times bound to keep up, and in

repair, the beacons adjudged by the Arbitrators or by the Supreme Court to be erected in the next succeeding clause mentioned; and it shall be competent to the Board or the Supreme Court to determine by which of the parties interested, and within what time, the beacons shall be erected. Law 39, 1888.

52. All such beacons as are in the last preceding clause mentioned shall be not less than three feet in diameter at the base, and three feet in height, and constructed of stone. Size of beacons.

53. If, after the expiration of six months after any final decision in any disputed case under this Law, the beacons, being such beacons as are in the last preceding clause mentioned, shall not have been erected, the person or persons adjudged to erect them shall, on conviction before any Resident Magistrate, incur, for and in regard to each beacon not up, or not in repair, a fine not exceeding Ten Pounds, nor less than One Pound, in addition to the costs of the prosecution, which fine shall be incurred afresh for every three months, after a first conviction, during which any such beacon shall not be put up or be left out of repair. Penalty for non-erection or disrepair.

54. If any person, without authority of some competent Court, or in pursuance of some order of the Board of Arbitrators, shall injure, or destroy, or remove, or alter any beacon erected or defined, according to the provisions of this Law, or shall erect any beacon with intent to alter the boundary line of any farm as so defined, he shall be guilty of a contravention of this Law, and upon conviction before any Resident Magistrate, shall be liable to a fine not exceeding Fifty Pounds, or to imprisonment, with or without hard labour, for any term not exceeding six months, or to both fine and imprisonment. Penalty for injury to beacons or alteration, or wrongful erection.

55. All fines imposed by this Law shall be paid to the Colonial Government for the public uses of the Colony. Disposal of fines.

56. Nothing in this Law contained shall be held in anywise to repeal, alter, or amend the Law, entitled Law "To remedy certain evils and inconveniences arising from the confusion of the boundaries of various blocks, lots, erven, or other subdivisions of land and of the streets and public ways within the City or Borough of Pietermaritzburg, and to sanction and legalise the re-survey and general plan of such City and certain defined beacons, and for granting powers to adjudicate and settle disputes and differences thereon, and in regard to trespasses by encroachment on such lands, streets, and public ways"; or to impair, diminish, or interfere with the powers and duties of the court or tribunal by the said Law established. Saving.

57. Nothing in this Law contained shall apply to or in respect of any Town Lands or Commonage, or any lands situate within the limits of any Borough, Township, or Village, or to or in respect of any boundaries which are not boundaries of original grants of land. Lands to which Law does not apply.

58. This Law shall commence and take effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (A). Commencement.

Law No. 5, 1890.

"To amend in certain respects Law No. 5, 1860, and the Law No. 19, 1883

[28th May, 1890.]

WHEREAS it has been deemed advisable to reduce the duty of four per centum imposed under the provisions of the Laws No. 5, 1860, and No. 19, 1883:

(A) Dec. 18, 1888.

Law 5, 1890.

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

Amendment of
sec. 6, Law 5,
1860.

1. In Law No. 5, 1860, Section 6, the words "a duty of four per centum," shall be and the same are hereby expunged, and the words "a duty of ~~two~~ per centum," shall be and the same are hereby substituted therefor.

Amendment of
sec. 1, Law 19,
1883.

2. Clause No. 1 of Law No. 19, 1883, entitled "Law to amend Law No. 5, 1860," is hereby repealed, and the following shall be substituted therefor:—

For or in respect of every private or public sale or of every exchange or other alienation of any Immovable or Landed Property, situate within the Colony of Natal, made on or after the First day of July, 1890 (except as in the Schedule marked No. 1 annexed to and incorporated with said Law No. 19, 1883, and except as in the Schedule No. 1 annexed to and incorporated with the said Law No. 5, 1860, are excepted), there shall be chargeable upon and payable by the purchaser a duty of ~~two~~ per centum upon the amount of the price or purchase-money paid or to be paid for the said Immovable or Landed Property, or on the value of the Land or Property exchanged or alienated.

This Law to be
read with Laws
5, 1860, and 19,
1883.

3. This Law shall be read and construed together with the Law No. 5, 1860, and the Law No. 19, 1883, as one Law.

Commencement

4. This Law shall commence and take effect from and after the First day of July, 1890.

Law No. 6, 1891.

"To amend Law No. 19, 1884, entitled 'Law to amend in certain respects the Law and Practice in reference to Registration.'"

[16th July, 1891.]

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

Duty of 4 per
cent. payable
under sec. 7,
Law 19, 1884,
reduced to 2 per
cent.

The duty of Four per Cent. appointed to be paid under the provisions of Section 7 of Law No. 19, 1884, in respect of any lease or any cession or assignment of any interest in any lease or sub-lease, which lease, or cession, or assignment shall be sought to be registered in the office of the Registrar of Deeds after the coming into effect of this Law, shall be reduced to a duty of ~~Two~~ per Cent.

REGISTRATION (SERVANTS).

Law No. 21, 1888.

“To facilitate the Registration of Native Servants and Servants belonging to Uncivilised Races within the Boroughs of Pietermaritzburg and Durban.”

[24th October, 1888.]

WHEREAS it is desirable to assist the Town Councils of the Boroughs of Pietermaritzburg and Durban to effect a registration of Native Servants and Servants belonging to Uncivilised Races within the said Boroughs :

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

1. In construing this Law the term “Native” shall mean a Native as defined in the Law No. 14, 1888. The term “Uncivilised Races” shall include all barbarous or semi-barbarous races, and all Indians introduced into this Colony as indentured labourers, but who shall not at the time being be serving under such indenture or a renewal thereof. Interpretation.
2. The Town Councils of the Boroughs of Pietermaritzburg and Durban, constituted under Law No. 19, 1872, shall be and the same are hereby authorised to establish a system of registration of Natives, or persons belonging to uncivilised races, resident, and employed by the day or month, or any longer period, or seeking employment, within their respective Boroughs. Town Councils of Pietermaritzburg and Durban may establish a system of registration.
3. Such system of registration shall be by By-laws, to be made and confirmed as other By-laws of the said Boroughs, under the provisions of the “Municipal Corporations Law, 1872.” System to be by By-laws.
4. Any person contravening any of the By-laws made under the provisions of this Law shall be liable to pay a fine not exceeding £2, or in default of payment to be imprisoned with or without hard labour for any period not exceeding two months. Penalty for contravening By-laws.
5. All prosecutions for any such contraventions may be instituted before the Magistrate having jurisdiction in such Borough, by or on behalf of the Town Council. Prosecutions.
6. The police or other proper officers of the Borough are hereby empowered summarily to arrest all persons contravening any of the said By-laws, and to lodge them in the station-house of the Borough for the purpose of being brought to trial at the first available opportunity, such period not to exceed 24 hours: Provided that it shall be lawful for such police or other officers to release any person from such custody upon reasonable bail to appear and answer to the charge to be brought against him. Arrest of offenders.
7. Provision may be made by the said By-laws for such a reasonable charge for each entry in the register as shall be approved by the Governor in Council. Charge for entry in register.
8. Provision may be made by the said By-laws for the registration of contracts between masters and servants who may wish to register such contracts. Registration of contracts.
9. Any person residing where this Law is in operation, employing a Native, or person belonging to any uncivilised race, not provided with a registration ticket, shall be liable to a fine not exceeding £2, or in default of payment to imprisonment for seven days. Penalty for employing servant not provided with registration ticket.

REGISTRATION (SERVANTS).

Law 21, 1888.

Appropriation
of fines.

Cost of
maintaining
prisoner, how
defrayed.

European
servants not
within this Law.

10. All fines and money penalties taken under the provisions of this Law shall form a portion of the revenues of the respective boroughs.

11. The cost of maintaining in prison any person imprisoned under the provisions of the fourth section of this Law shall be defrayed by the respective Corporations.

12. None of the provisions of this Law shall apply to European servants or servants of European descent.

RENUNCIATIONS.

[See " BONDS. "]

REVENUE (A).

I. STAMPS AND LICENSES.

Law No. 2, 1869.

“To confine the use of Postage Stamps to the purposes of Postage.”
[23rd August, 1869.]

WHEREAS it is desirable that postage stamps should be made use of for the purposes of postage only; and that for the purposes of postage, postage stamps alone should be made use of:

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

1. No postage stamp which shall, from and after the [first day of July next (B)], be affixed to any instrument or document required by the “License and Stamp Law, 1868,” or any other Law or Ordinance, to be stamped, shall be deemed available by way of a stamp on such instrument or document, save only for the purposes of postage; but every instrument or document, so far as the same shall be stamped with postage stamps, shall, save for the purposes of postage, be deemed to be unstamped or insufficiently stamped, as the case may be, in like manner as if no such postage stamps had been affixed thereto, and shall be liable to all the disabilities and penalties which would attend such instrument or document, if so unstamped or insufficiently stamped, as aforesaid; and every person who shall affix by way of stamp, for any purpose other than for postage purposes, a postage stamp to any instrument or document required by the said Law, or any other Law or Ordinance, to be stamped, and every person who shall receive such instrument stamped with any postage stamp, shall be liable to the same penalties and disabilities as if such postage stamp were not affixed and no stamp were affixed in stead thereof (C).

Postage stamps not to be available for other than postage purposes.

2. From and after the aforesaid date, no stamps other than postage stamps shall be available for the purposes of postage; and any letter, book, or packet, having affixed thereon, for the purposes of postage, any stamp other than a postage stamp, shall, so far as the same shall be stamped with stamps other than postage stamps, be deemed to be unstamped, or insufficiently stamped, as the case may be (D).

No other than postage stamps to be used for postage.

3. It shall be lawful for the Lieutenant Governor, from time to time, by proclamation, to direct, appoint, define, and describe the colour, inscription, or other distinguishing mark of stamps to be used as postage stamps, and what stamps shall be used as stamps for the purposes of “License and Stamp Law, 1868,” respectively; and the term “postage stamps,” wherever it occurs in this Law, shall be taken to mean such description of stamps as the Lieutenant Governor shall, for the time being, have so directed, appointed, defined, and described, as postage stamps (E).

Postage stamps to be defined by proclamation.

4. This Law shall commence and take effect from and after the promulgation thereof in the “GOVERNMENT GAZETTE” (F).

Commencement

(A) This title is subdivided as follows:—I. STAMPS AND LICENSES; II. CUSTOMS; III. EXCISE.

(B) See Law 3, 1869, post.

(C) This sec. is practically obsolete. See Act 43, 1898, s. 19, post.

(D) See Law 22, 1884, s. 12, tit. “POST OFFICE.”

(E) See Law 22, 1884, s. 4, sub-s. (9), tit. “POST OFFICE.”

(F) Aug. 24, 1869.

Law No. 3, 1869.

“To remedy an error in the Law of the present Session, entitled Law To confine the use of Postage Stamps to the purposes of Postage.’”

[23rd August, 1869.]

WHEREAS an error has occurred in the said Law, and it is necessary to remedy such error:

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, by and with the advice and consent of the Legislative Council thereof, as follows:—

Amendment of
secs. 1 and 2 of
Law 2, 1869.

1. The aforesaid Law is hereby amended by substituting the date “first day of September next,” for the date “first day of July next,” in the first Section of said Law mentioned, and in the second Section of said Law referred to.

Commencement

2. This Law shall be construed with such amended Law, and shall commence and take effect from and after the promulgation thereof in the “GOVERNMENT GAZETTE” (A).

Act No. 43, 1898.

“To consolidate and amend the Laws relating to Licenses and Stamps.”

[23rd August, 1898.]

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:—

PART I.

Preliminary.

Interpretation.

1. In this Act, unless the context otherwise requires, the following expressions shall bear the meanings herein assigned to them:—

“Auditor” means the Auditor-General.

“Court” means the Supreme Court of Natal, or any Judge thereof, or Circuit Court having jurisdiction.

“Deed” includes every written document.

“Die” includes any plate, type, tool, or implement whatever used in terms of this Act for expressing or denoting any stamp duty or rate of duty, or the fact that any stamp duty or rate of duty or penalty has been paid, or that any instrument is duly stamped or is not chargeable with any duty, or for denoting any fee, and also any part of such plate, type, tool, or implement.

“Distributor of Stamps” means any officer appointed in terms of Section 6 of this Act.

Executed and execution” include signed and signature.

Duly Stamped Deed” means a deed bearing stamps duly defaced in terms of this Act and of a value not less (having regard to the date of defacement), than that required in terms of this Act.

Forge and Forged” include counterfeit and counterfeited.

Government of Natal or Colonial Government” includes the Natal Government Railways.

(A) Aug. 24, 1869.

- “Marketable Security” includes any stock, debenture, security, share, or the like, of such a description as to be capable of being sold in any share market or exchange in South Africa. Act 48, 1898.
- “Money” includes all sums expressed in British or Foreign or Colonial currency.
- “Occupation” includes business, trade, and profession.
- “Person” includes a partnership or association.
- “Place” includes building, premises, office, shop, store, and the locality of any occupation.
- “Stamp” means as well a stamp impressed by means of a die, as an adhesive stamp for denoting any duty.
- “Writing or Written” includes printing, type-writing, or any process of producing printing or writing.

2. The enactments specified in the first Schedule of this Act are hereby repealed to the extent therein specified: Provided, however:— Repeals.

- (a) That all rules, regulations, proclamations, appointments, acts, or things done under such repealed enactments shall, save so far as contrary to, or repealed or varied under this Act, remain in full force and effect;
- (b) That all offences against the provisions of such repealed enactments may be prosecuted, and all fines and penalties incurred or chargeable thereunder may be recovered in the same way as if there had been no such repeal, in any case in which such offence was committed, or liability to such fine or penalty incurred prior to the coming into effect of this Act;
- (c) That nothing herein contained shall affect the stamping of any deeds required to be stamped, or the taking out of any licenses or the like required to be taken out prior to the coming into effect of this Act;
- (d) That this repeal shall not affect any power or right which has been conferred by law upon any municipal corporation or local township in regard to issuing and levying charges for licenses;
- (e) That reference to such repealed enactments or any of them in any other enactments shall be deemed to be references to this Act unless such other enactments or this Act are inconsistent with such construction.

3. This Act shall not apply to the Province of Zululand.

Zululand.

4. In cases where the stamp duties payable on any license or document under this Act or under regulations applicable to the Province of Zululand have been paid, no other stamp duties shall be chargeable on such license or document under this Act, or under such regulations.

Exemption from further duty of documents stamped under this Act or Zululand regulations.

5. This Act shall come into operation on the first day of January, 1899, and may be cited as the “License and Stamp Act, 1898.”

Commencement and short title.

PART II.

Management of Stamps, &c.

6. It shall and may be lawful for the Governor from time to time to nominate and appoint such persons as he may think fit who shall be charged with any or all of the following duties:—

Appointment of officers.

- (a) The providing, custody, and management of proper and sufficient dies and materials for impressing or denoting stamp duties;

Act 43, 1898,

- (b) The making, custody, and management, supply, sale, and distribution of stamps required for the purposes of this Act;
- (c) The stamping of deeds, and the defacing of stamps in accordance with the provisions of this Act.

Regulations for guidance of officers.

7. It shall and may be lawful for the Governor from time to time to make regulations for the due discharge of the duties imposed on Distributors of Stamps, and for the due accounting for all stamps or moneys received therefor, and from time to time to vary or revoke the same: Provided always that copies of any regulations so made shall be transmitted as soon as may be to the President of the Legislative Council and the Speaker of the Legislative Assembly, to be laid by them before the Council and Assembly respectively.

Allowance for Spoiled Stamps.

Powers of Auditor to make allowance for spoilt stamps.

8. Subject to such regulations as may from time to time be made by the Governor, and to the production of such evidence as the Auditor may require, the Auditor may in his discretion make an allowance in the following cases to any person tendering stamps that may have been spoilt or rendered unserviceable, namely:—

- (a) Where the stamp has been inadvertently and undesignedly spoilt, obliterated, or rendered unserviceable either before it has been affixed to any deed or before any material or deed on which the stamp has been placed, has been executed by any party;
- (b) Where a bill of exchange or promissory note signed by or on behalf of the drawer or maker has not been made use of in any manner whatever, or delivered out of his hands, or tendered for acceptance or endorsement;
- (c) Where a deed executed by any party thereto has been afterwards found either to be void or to be unfit by reason of any error therein for the purpose originally intended;
- (d) Where a person has by error taken out a license other than that originally intended by him;
- (e) Where a deed executed by any party thereto has not been made use of and is insufficient for the purpose for which it was intended, or becomes void either by reason of the inability or the refusal of some necessary party to execute the same, or to complete the transaction according to the deed;
- (f) Where a deed executed by any party thereto has been inadvertently and undesignedly spoilt, obliterated, or rendered unserviceable, and in lieu thereof another deed, duly stamped, giving effect to the same transaction has been executed.

Provided always:

- (1) That the application for relief shall be made within six months after the stamp has been spoilt, obliterated, or rendered unserviceable, or within such further period as may be prescribed by regulations made from time to time by the Governor;
- (2) That the stamp or deed in respect of which allowance is claimed is given up to the Auditor to be cancelled;
- (3) That the allowance shall be by giving to the claimant therefor either other stamps or money to the same value, the Auditor, however, being entitled to make such deduction as he may think fit, not exceeding one-third of the nominal

value of the stamps spoiled, obliterated, or rendered unserviceable. Act 43, 1898.

9. Where any person inadvertently and undesignedly has used for a deed liable to duty a stamp of a greater value than was necessary, or has used a stamp for a deed not liable to any duty, the Auditor may, upon application, and subject to such instrument (if liable to duty) being duly stamped, make an allowance in respect of such excess or unnecessary stamps in the same manner and subject to the same provisions as set forth in the preceding section.

Allowance in case of a deed being over-stamped.

PART III.

Annual Licenses.

10. All persons exercising or carrying on any of the occupations, or doing any of the acts mentioned in the second Schedule of this Act (subject, however, to the exceptions therein contained), shall procure from the officers appointed from time to time by the Governor to issue the same, annual licenses therefor, and such licenses shall bear a stamp of the value specified in each case in such Schedule.

Persons exercising certain callings to take out licenses.

11. Licenses may be written upon stamped paper or have adhesive stamps affixed; and all such stamps, whether adhesive or not, shall be defaced by the officer who issues the licenses, stamping the same with an office stamp, or himself writing thereon his name or initials and the date and office of issue.

Stamping of licenses; defacement.

12. Every such license, when taken out, shall expire on December 31st of the year in which it is taken out: Provided, however, that a stamp of three-fifths of the value specified in the second Schedule of this Act shall be sufficient for licenses duly taken out on or after July 1st in any year.

Duration.

Reduction for half-year.

13. It shall and may be lawful for the Governor, subject, however, to the provisions of this Act, from time to time to make, vary, and cancel regulations respecting, and to deal with the following matters:—

Regulations as to form, inspection, transfer, &c., of licenses.

- (a) The form of licenses, the manner of issue, and the officers appointed to issue licenses, and to prosecute civil proceedings in respect of any defaults in procuring licenses;
- (b) The inspection of licenses and the appointment and duties of inspectors of licenses;
- (c) The manner and form of transfer of licenses.

14. Every person who is liable to take out a license under this Act shall produce and exhibit the same for examination by any duly appointed inspector of licenses, whenever requested so to do.

Inspection of licenses.

15. Subject to such regulations as may be made from time to time by the Governor, and to the stamp duty of Five Shillings on each transfer, licenses may be transferred so as to authorise,—

Transfer of licenses.

- (a) The same person to carry on the same occupation, or do the same act on or at another place within the same municipality, township, or magisterial division;
- (b) The carrying on of an existing occupation, or the continuance of an act by another person on or at a place already licensed, in respect of which occupation or act the transferee has acquired the rights of the prior holder of the license.

16. (a) Every license (other than those issued to joint stock companies), shall specify the proper christian name, surname, and place of abode of the person or persons to whom it is granted, and the nature of the occupation or act for which the license is issued, and shall contain

Particulars to be specified in licenses.

Act 43, 1898.
Forms of appli-
cation.

License to
cover one place,
except in
certain cases.

Company's
license extends
throughout
Colony.

Who liable to
take out Com-
pany's license.

a true description of the particular place on or at which such person is by such license authorised to exercise or carry on the occupation, or do the thing licensed. Forms of applications for licenses shall be supplied by the Magistrate to any person upon demand.

(b) No license shall specify or cover more than one place, save as excepted in Section 17 of this Act.

(c) Nothing herein contained shall be held to prohibit duly licensed auctioneers from holding special sales, or any duly licensed advocate or attorney from appearing or practising in any Court within the Colony, notwithstanding that his place of abode may not be in the same town or place as such Court, or any architect, civil engineer, interpreter, land-surveyor, medical practitioner or dentist from performing any act in the course of his occupation elsewhere than in the place specified in his license.

17. The license issued to any joint stock company (including an insurance company or assurance company) at any seat or place of business within the Colony shall extend to the business of such company at all its places of business within the Colony, and to all directors, managers, or agents in respect of the business of such company.

18. The directors, managers, agents, and representatives of any joint stock company (including an insurance company or assurance company), or such of them as may be within the Colony, shall be each personally liable "singuli in solidum" to take out the necessary license of the company each year during their term of office, and the person taking out such license shall certify the amount of the paid up capital of such company for the time being to the officer appointed to issue such license, and, if the amount be not so certified after demand therefor, then such officer shall be entitled to estimate such paid up capital at whatever amount he shall, from the information within his reach, judge to be sufficient, and thereupon such estimated amount shall, for all purposes of this Act, be considered the paid up capital of the company, subject, however, to the right of the Court, upon application and upon proof, to reduce such estimated amount if excessive, to the amount of the paid up capital of such company upon such terms as it may deem just.

PART IV.

General Provisions as to Stamping Deeds, &c.

Deeds to be on
stamped paper,
or to bear ad-
hesive stamps.

Stamp to be
used only for
one deed.

Several deeds
on same
material.

Matters involv-
ing separate
duties need not
be separately
stamped.

Defacement by
Registrar of
Deeds ;

19. The deeds specified in the Third Schedule of this Act shall be either written upon stamped paper or have adhesive stamps (either general or postal or revenue) affixed to them of the values, or not less than the values, respectively specified in such Schedule.

20. Every such deed written upon stamped material is to be so written, and, if not written upon stamped material, is to be so stamped that the stamp cannot be used for, or applied to, any other deed written upon the same piece of material.

21. If more than one deed be written upon the same piece of material, every one of the deeds is to be separately and distinctly stamped with its proper stamp.

22. Any deed which relates to several distinct matters which might involve different stamp duties, is to be stamped with stamps of the highest value chargeable in respect of any one of such matters, and need not be stamped separately in respect of each of the separate matters.

23. (a) The stamps on all deeds registered in the Registry of Deeds, and which are executed by or before the Registrar of Deeds (other than notarial deeds) shall be defaced by the Registrar of Deeds (A) ;

(A) This sub-s. held to refer to deeds executed by the Registrar and registered in his office, so as not to include

declarations of seller and purchaser and Power of Attorney to transfer (*Archibald v. Registrar of Deeds*, 20 N.L.R. 45).

REVENUE—I. STAMPS AND LICENSES.

(b) The stamps on notarial deeds shall be defaced by the notary by or before whom they are passed; Act 43, 1898.
by Notary ;

(c) The stamps on all other deeds shall be defaced by the party or some one of the parties executing the deed, or by any person who has attested its execution, or by the agent or solicitor of some one of the parties thereto: Provided that it appears on the face of the deed that it was prepared by such agent or solicitor. by other persons.

24. Government ~~and Bank~~ officers may use a stamp of office for defacing stamps in lieu of writing their name or initials and the date. Government or Bank officers.

25. 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 initials and the date of defacement over the stamp: Provided always, that the Auditor or other officer appointed as provided in this Act may either authorise the defacement of, or himself deface, such stamps:— Manner and time of defacement.

(a) After the lapse of the twenty-one days but before the lapse of forty-two days from execution, if additional stamps be affixed to such deed of a value determined by him, being not less than five times the value of the original stamp duty, not, however, exceeding two pounds in any case. Additional stamps by way of penalty.

(b) After the lapse of forty-two days from execution if additional stamps be affixed to such deed, of a value determined by him, being not less than twenty times the value of the original stamp duty, not, however, exceeding five pounds in any case.

26. Where the Auditor, or such other officer as aforesaid, is satisfied that, though stamps have been duly affixed to a deed, they are owing to a "bona fide" mistake of less than the necessary value, he may authorise the affixing and defacement, or himself affix and deface, stamps up to the necessary value, without any penalty, notwithstanding the provisions of the preceding Section. Deeds insufficiently stamped by mistake.

27. Deeds executed and fully completed out of the Colony, need not be stamped within the Colony unless they are deeds required or intended for registration in this Colony, either with the Registrar of Deeds, or the Master of the Supreme Court, or the Surveyor-General. Deeds executed out of the Colony.

28. Where deeds requiring to be stamped in this Colony have been executed either in whole or in part, out of the Colony, the date of execution for the purposes of stamping shall be taken to be fourteen days after their receipt within the Colony. Date of execution for purposes of stamping.

29. Where any deed is signed at different dates within the Colony, the date of the last signature shall be taken to be the date of execution for the purposes of stamping. Different dates of signatures.

30. (1) Where the value of the stamps to be affixed to a deed varies according to the value or sum referred to, or deemed to be referred to in the deed, and the definite amount or sum upon which the stamp duty can be calculated, is not stated in or ascertainable with certainty from the deed; In certain cases the sum upon which stamp duty payable is to be ascertained by valuation.

(2) Or where the amount or value, or whatever is dealt with in the deed, consists in whole or in part of a periodical payment of a sum of money (whether for a definite or indefinite period), or the payment of the rent, income, or proceeds of any property or estate, or any annuity or life use of property or the like:

Then the value or sum upon which stamp duty is chargeable shall be ascertained by a valuation of the property, right, interest, or thing dealt with by, or made the subject or in part the subject of the deed, made by the Registrar of Deeds if the parties consent, or by or on behalf of the parties if the Registrar of Deeds consents, and in other cases by some valuator to be appointed or approved by the Registrar of Deeds:

Act 43, 1898.

Provided always :

- (a) That "ad valorem" stamp duty shall not be chargeable upon a greater sum than the value, at the time of the deed, of the property, right, interest, or thing dealt with in the deed.
- (b) That in making any such valuation, the probabilities of life, the certainty or uncertainty of the payment, or enjoyment of what is valued, and any other circumstances affecting its value, shall be taken into consideration.
- (c) That any party affected may appeal to the Court upon motion, against any such valuation.

Value to be according to current rate of exchange unless otherwise expressed.

31. Where a deed is required to be stamped according to amount or according to an "ad valorem" rate, the value for the purposes of stamp duty, if not expressed in the deed in British currency, shall be according to the current rate of exchange on the day of the date of the deed: Provided that, if the deed contains a statement of the current rate of exchange, such rate shall, for the purposes of stamp duty, be deemed to be the true rate of exchange until it is shown that the statement is untrue.

Facts affecting duty to be disclosed.

32. Where all the facts and circumstances affecting the liability of any deed to stamp duty or the amount of such stamp duty are not fully and truly set forth in such deed, then any Court before whom the same may be produced or tendered in evidence, or the Registrar of Deeds, or any such officer as is referred to in Section 34, may require such facts and circumstances to be disclosed before allowing any such deed to be made use of, received, issued, registered, or authenticated: Provided that the party tendering or producing such deed, or entitled thereto, may appeal to the Registrar of Deeds in terms of Section 35 against the decision of any such officer, and to the Court against any decision of the Registrar of Deeds.

No deed to be given in evidence unless duly stamped.

33. No deed which is required by this Act to be stamped shall be produced or given in evidence, or be made available in any Court in this Colony unless the same be duly stamped and defaced, except:—

Exceptions.

- (a) In criminal proceedings;
- (b) In any proceeding by or on behalf of the Government for the recovery of any stamp duties on such deed, or any penalties alleged to have been incurred by reason of such deed not being duly stamped;
- (c) In other proceedings, upon payment by the party producing or tendering such deed in evidence by way of penalty, of such sum as the Court may direct not being less than five times the original stamp duty, not, however, exceeding Five Pounds Sterling, and subject to the deed being stamped with the stamps which ought to have been originally affixed.

Provided always :

No penalty payable by Crown.

- (1) That when any such deed is produced or given in evidence by or on behalf of the Crown or any officer of the Government acting as such, no penalty or fine or stamp duty shall be deemed to be imposed upon or payable by the Crown or by such officer.
- (2) That the foregoing proviso shall not exempt any other person from any liability in respect of such deed.
- (3) That any person producing or tendering any deed not duly stamped, who has paid any penalty as aforesaid, but who was not liable under this Act to duly stamp such deed, shall be entitled to recover the amount of such penalty from the person or persons who were liable to duly stamp

Person paying penalty who is not liable may recover from person who was liable.

such deed; and such amount may be included in any bill of costs payable by the person or persons last referred to. Act 43, 1898.

34. No officer holding any office or employment under Government shall, in the course of his duty save as set forth in the exceptions contained in the preceding section, receive, issue, register, or in any way authenticate any deed which is required by this Act to be stamped, unless the same be duly stamped, having regard to the provisions of Section 25 of this Act, and if such officer shall, notwithstanding, receive, issue, register, or authenticate any deed not duly stamped, then he shall call upon the party who tendered or delivered such deed if it be still in the officer's possession, or if it be not in his possession, then upon both the parties who tendered or delivered such deed and to whom such deed was issued or given, to cause such deed to be duly stamped, and, if such deed be not thereupon exhibited to such officer, duly stamped, within seven days of such notice, such deed shall be taken never to have been received, issued, registered, or authenticated, as the case may be, by such officer: Provided always, that the Court may, upon application, allow such deed to be considered as duly received, issued, registered, or authenticated, as the case may be, upon payment by way of penalty of such sum not being less than Five Pounds nor more than Fifteen Pounds, as the Court may direct, and upon the deed being stamped with the stamps which ought originally to have been affixed.

Government officers not to register, &c., deed not duly stamped.

PART V.

Adjudication of Stamp Duties.

35. Any person desiring to learn whether any deed is liable to stamp duty, or with what amount of stamp duty it is chargeable, shall be entitled to submit the question in writing to the Registrar of Deeds for his determination, and thereupon the Registrar of Deeds shall either determine such question himself or submit the same to one of the Judges of the Supreme Court for determination, and thereafter he shall inform such person of the decision on such question:

Question of stamp duty on a deed may be submitted to Registrar of Deeds and by him to a Judge.

Provided always:

- (a) That such written request, if made by any person not being an officer of the Government acting in the course of his duty, shall bear stamps to the value of Two Shillings and Sixpence Sterling in respect of each question so submitted;
- (b) That such person shall be entitled to submit in like manner a draft deed, not executed by the proposed or intended parties, for determination of the stamp duty, if any, chargeable thereon, and the written request shall in that case bear stamps of the value of Five Shillings, unless submitted by an officer of the Government acting in the course of his duty;
- (c) That such person shall be entitled to require the Registrar of Deeds to submit, without fee or reward, any such decision of his to one of the Judges of the Supreme Court for confirmation, amendment, or reversal, or for his instructions thereon;
- (d) That any Judge of the Supreme Court to whom any question is so submitted, may, in lieu of deciding thereon, refer the same to the full Court for decision;
- (e) That any such decision of a Judge of the Supreme Court may, whatever be the sum at issue, be brought before the full Court for review.

Act 43, 1898.
Certificate of Registrar of Deeds of due stamping.

36. The Registrar of Deeds shall, if requested thereto by any party tendering a deed in terms of the preceding section, certify in such manner as he may think fit on the deed that the same is duly stamped, if or when it shall be duly stamped.

PART VI.

Provisions applicable to particular Deeds.

Brokers' Notes.

Broker to keep copy or counterfoil of sale or purchase notes in a book.

37. Every broker shall be required to keep in a book a copy or counterfoil of every note, advice, letter, or memorandum sent by him to his principal, advising him of the sale or purchase of any stock or marketable security, merchandise, or any commodity. Such book shall be open to inspection at all reasonable times by an inspector of licenses, or by any person authorised by a Magistrate to make such inspection.

"Broker's Note."

For the purposes of stamp duty the expression "Broker's Note" shall be deemed to refer to the counterfoil or duplicate required to be kept of any such note, advice, letter, or memorandum as aforesaid.

Duty may be added to brokerage.

38. The stamp duty on a broker's note may be added to the charge for brokerage or agency.

Broker not entitled to charge unless note stamped.

39. No broker shall have any legal claim to any charge or remuneration for brokerage, commission, or agency in connection with any sale or purchase referred to in any such broker's note, until or unless such broker's note be duly stamped, if it be not exempted from stamp duty.

Copies.

Stamps on certified copies, or duplicate originals.

40. Duplicate originals or copies of any deed certified by a Notary Public or any officer of the Government acting as such, shall bear stamps of half the value of the stamps to which the original deed was liable, but not exceeding 5s. in any case; fractions of a penny, however, being reckoned as one penny.

Date for purposes of stamp.

41. The stamping of and defacement of stamps on such copies shall be subject to the same provisions as the stamping and defacement of stamps on the original as if the day of attestation, authentication, or certificate were the day of execution.

Receipts.

Meaning of receipt.

42. For the purposes of this Act the expression "receipt" includes any note, memorandum, or writing whereby any money, or cheque for money, or bill of exchange, or promissory note amounting to £2 or upwards is acknowledged to have been received, deposited (otherwise than for custody), or paid, or whereby any debt or demand, or any part thereof, amounting to £2 or upwards, is acknowledged to have been settled, satisfied, or discharged in whole or in part, or which imports any such acknowledgment, and whether the same is or is not signed with the name of any person.

Who liable to stamp receipt.

43. The recipient of the money, cheque, bill of exchange, promissory note, or the like, or the grantor of the receipt on behalf of such recipient, shall be liable to the expense of duly stamping the same.

Settlements.

Stamps on deeds effecting settlement of same property.

44. Where several deeds are executed for effecting the settlement of the same property, one only of such deeds is to be charged with the "ad valorem" duty as a settlement, but the other deeds shall not be exempt from any stamp duty to which they may be liable, otherwise than as settlements, whether under the head of transfers, mortgages, or the like.

Transfers.

Act 43, 1898.

45. For the purposes of this Act "transfer" includes every deed operating, or purporting to operate as a conveyance, cession, or alienation of any property, right, interest, or thing whatsoever.

Meaning of "transfer."

46. Where property contracted to be sold for one consideration for the whole is transferred to the purchaser in separate parts or parcels by different instruments, the consideration is to be apportioned in such manner as the parties think fit, so that a distinct consideration for each separate part or parcel is set forth in the transfer relating thereto, and such transfer shall be stamped according to such distinct consideration.

Transfer in separate parts by different deeds.

47. Where property contracted to be purchased for one consideration for the whole by two or more persons jointly or by any person for himself, and others, or wholly for others, is transferred to the persons by or for whom the same was purchased for distinct parts of the consideration, the transfer of each separate part or parcel is to be stamped according to the distinct part of the consideration therein specified.

Transfer in parts of property purchased for one consideration.

48. Where a person having contracted for the purchase of any property (other than immovable property, or registered lease, or any right or interest therein) but not having obtained transfer, contracts to sell the whole or any part or parts thereof to any purchaser, and the property or some part or parts thereof is or are in consequence transferred from the original or some prior seller directly to such purchaser, the transfer of such property or part or parts thereof shall be stamped only in respect of the consideration moving from the last purchaser to whom transfer was made, without regard, so far as concerns the property or part or parts thereof so transferred, to the amount or value of the original consideration.

Intermediate sales not to be regarded for purposes of stamp duty.

PART VII.

Miscellaneous.

49. It shall and may be lawful for the Governor to appoint one or more persons from time to time to examine the protocols and registers of Notaries Public practising as such in this Colony and to make regulations for the time, place, and manner of any such examinations.

Examination of Notaries' protocols and registers.

50. The Governor may from time to time appoint any officer to fulfil the duties and exercise the powers of the Auditor referred to in this Act. (a)

Appointment of officer to fulfil duties of Auditor.

51. Every Magistrate shall cause a notice to be conspicuously affixed at the Court House door, from the 20th day of December in each year to the end of the next January, calling the attention of all persons to the provisions of Section 10 of this Act, and shall also cause similar notices to be published in each issue of the "NATAL GOVERNMENT GAZETTE" during the same period, and at least twice in each of two newspapers between the 20th day of December and the 10th day of January.

Annual notice calling attention to provisions of sec. 10.

52. Every contract, arrangement, or undertaking, framed with a view or object of precluding objection or enquiry upon the ground of absence or insufficiency of stamps upon any deed, or with a view or object of defeating any provision of this Act, as to the due stamping of deeds or taking out of licenses, shall be void, so far as such view or object is concerned.

Nullity of agreements to defeat the Act.

53. Except where express provision is made to the contrary by this or any other Act, any deed relating to any property of the Crown is to be charged with the same duty as a deed of the same kind relating to property belonging to a subject.

Liability to stamp duty of deeds relating to Crown property.

Act 43, 1898.

PART VIII.

*Provisions with reference to Offences.**Offences relating to Part II.*

Definition of certain offences relative to stamps, dies, &c.

54. Every person who does, or causes or procures to be done, or knowingly aids, abets, or assists in doing any of the following acts, that is to say:—

- (a) Forges a die or stamp;
- (b) Prints or makes an impression upon any material with a forged die with intent to use or allow any one to use the same;
- (c) Fraudulently prints or makes an impression upon any material from a genuine die;
- (d) Fraudulently cuts, tears, or in any way removes from any material any stamp with intent that any use should be made of such stamp or any part thereof;
- (e) Fraudulently imitates any stamp with intent that any use should be made of any part of such stamp;
- (f) Fraudulently fixes or places upon any material or upon any stamp, any stamp or part of a stamp which, whether fraudulently or not, has been cut, torn, or in any way removed from any material, or out of or from any other stamp;
- (g) Fraudulently erases, or otherwise, either really or apparently, removes from any stamped material any name, sum, date, or other mark or thing whatsoever thereon written with intent that any use should be made of the stamp upon such material;
- (h) Knowingly sells or exposes for sale, or utters, or uses any forged stamp, or any stamp which has been fraudulently imprinted or impressed from a genuine die;
- (i) Knowingly, and without lawful excuse (the proof whereof shall lie on the accused person) has in his possession any forged die or stamp, or any stamp which has been fraudulently printed or impressed from a genuine die, or any stamp or part of a stamp which has been fraudulently cut, torn, or otherwise removed from any material, or any stamp which has been fraudulently imitated, or any stamped material out of which any name, sum, date, or thing has been fraudulently erased, or otherwise, either really or apparently removed;
- (j) Without lawful authority or excuse (the proof whereof shall lie on the accused person) makes or knowingly has in his custody or possession any paper in the substance of which shall appear any words, letters, figures, marks, lines, threads or other devices peculiar to, and appearing in the substance of any paper used or intended to be used by the proper authorities in the making of stamps, and which shall be intended to imitate or pass for the same;
- (k) Causes any such words, letters, figures, marks, lines, threads or other devices and intended to imitate or pass for the same to appear in the substance of any paper whatever;

shall be guilty of an offence and shall, on conviction, be liable to be imprisoned, with or without hard labour, for any term not exceeding seven years.

55. Every person who, without lawful authority or excuse (the proof whereof shall lie on the person accused), purchases or receives, or knowingly has in his possession or custody :— Act 43, 1898.
Offences relative to the unlawful possession of stamp paper, dies, &c.

- (a) Any paper manufactured or provided for the purposes of making or impressing stamps by or for the proper authorities before the same shall have been duly stamped and issued for public uses; or

(b) Any plate, die, dandy-roller, mould, or other implement peculiarly used in the manufacture of any such paper, shall be guilty of an offence, and shall be liable, on conviction, to be imprisoned, with or without hard labour, for any term not exceeding two years.

56. On sworn information that there is just cause to suspect any person of being guilty of any of the offences contained in the two preceding sections, or to suspect that any stamps either forged, stolen, or fraudulently obtained, are in any place or in the possession or custody of any person, any Magistrate or Justice of the Peace, or any other officer who may be authorised to issue a search warrant, shall be entitled to issue a search warrant authorising any police constable or proper officer to search any such suspected person, or any place belonging to or occupied by the suspected person, or where he is suspected of being or having been in any way engaged or concerned in the commission of any such offence, or of secreting any machinery, implements, or utensils applicable to the commission of any such offences, or where such machinery, implements, or utensils, or any stamps stolen, forged, or fraudulently obtained, or reasonably suspected to have been stolen, forged, or fraudulently obtained, may be, and, if upon such search, any of the said several matters and things are found, the same may be seized and carried away, and shall afterwards be delivered to the Magistrate of the District who shall have custody thereof until the same be dealt with otherwise by law. Search warrants.

Seizure of incriminating articles.

57. Any matters or things so seized shall be adjudged to be forfeited to the Crown by the Court or the Magistrate having jurisdiction as to such offences, and thereafter shall be dealt with as the Auditor may direct :— Forfeiture of articles seized.

- (a) If they be forged or fraudulently imprinted stamps, or if they be any die, stamp, implement, or material, which it is one of the said offences to make, or possess, or use;
- (b) If they be stamps stolen or improperly obtained, or are reasonably suspected of having been stolen or improperly obtained, unless the person who has possession or custody of them shall satisfactorily account for such possession or custody: Provided, however, that nothing herein contained shall affect the rights of any person otherwise entitled in law to such stamps, or the possession or custody thereof.

58. If any forged stamps are found in the possession of any person appointed to sell and distribute stamps, or being or having been licensed to deal in stamps, that person shall be deemed and taken, unless the contrary is satisfactorily proved, to have had the same in his possession knowing them to be forged, and with intent to sell, use, or utter them, and shall be liable to the punishment imposed by law upon a person selling, using, uttering, or having in possession forged stamps knowing the same to be forged. Improper possession of forged stamps by persons appointed to sell or deal in stamps.

59. Where stamps are seized under a warrant, the person authorised by the warrant shall, if required, give to the person in whose custody or possession the stamps are found, an acknowledgment of the number, particulars, and amount of the stamps, and permit the stamps to be marked on the back before the removal thereof. Acknowledgment to be given by person seizing stamps.

Act 43, 1898.

Law applicable to search warrants.

60. The Law applicable to search warrants generally, and their execution, save so far as this Act otherwise provides, shall apply to search warrants issued under Section 56 of this Act.

Offences relating to Part III.

Liability to prosecution or civil action for not taking out annual license.

61. Every person who shall fail to procure the particular license or licenses required by Section 10 within thirty days of the beginning of the year, or in case he did not require such license at the beginning of the year, then within thirty days from the day on which such person first exercised or carried on the occupation, or did the act in respect of which a license is required, shall be deemed to have committed an offence on each day on which he is in default in taking out such license, and for each such offence shall be liable to a fine of not more than four times the amount of the stamp duty which such license is required to bear, and in default of payment to imprisonment, with or without hard labour, for a period not exceeding three months, or otherwise he may be sued by civil action for the amount of the stamp duty which such license is required to bear, and in addition, for a penalty not exceeding four times the amount of such stamp duty in respect of each day on which he is in default in taking out such license.

Provided, however :

That either civil or criminal proceedings in respect of any such defaults shall discharge such person from liability in respect of any default as to the same license prior to the institution of such proceedings, and that not more than three defaults shall be charged in respect of the same license in any one proceeding.

Punishment for failure to comply with sec. 14.

62. Every person shall be deemed to have committed an offence, and be liable, upon conviction, to a fine not exceeding £5, or in default of payment to imprisonment, with or without hard labour, for a period not exceeding three months, who shall fail to comply with the provisions of Section 14 of this Act, or to inform any lawfully appointed Inspector, on demand whether he has or has not a license.

Offences relating to Part IV.

Offences relating to the stamping of documents.

63. Every person shall be deemed guilty of an offence and be liable, on conviction, to a fine not exceeding £10—

- (a) Who shall, in defacing any stamp, or in the execution of any deed liable to stamp duty, knowingly place a date other than the true date of defacement or execution, as the case may be, such knowledge being presumed until the contrary be shown;
- (b) Who shall refuse to state, or knowingly misstate any facts or circumstances he may be required to disclose under Section 32 of this Act;
- (c) Who shall, within fourteen days after the making of an appraisement or valuation, which is liable to stamp duty, fail to write out the same;
- (d) Who shall receive from any appraiser or valuator, or pay for the making of, any appraisement or valuation, liable to stamp duty, which is not written out and duly stamped;
- (e) Who shall pay, satisfy or otherwise honour any of the following documents if liable to stamp duty, and not duly stamped, namely:—
 - Acknowledgment of Debt.
 - Bill of Exchange
 - Bond (including Mortgage Bond).
 - Cheque.

Promissory Note, or
Policy of Insurance.

Act 43, 1898.

(f) Who shall grant, issue, or deliver any of the following deeds not stamped, if liable to stamp duty, namely:—

Broker's Note (not being such note as is referred to in Section 9 of Law No. 31, 1888).

Debenture.

Letter of Allotment.

Marketable Security.

Policy of Insurance.

Proxy or Voting Paper.

Scrip Certificate.

Share Certificate.

Transfer of any marketable security, bond, mortgage bond, unregistered lease, or any right therein.

(g) Who shall

(1) Give any receipt liable to duty and not duly stamped, or

(2) Refuse to give a duly stamped receipt in any case where a receipt would be liable to stamp duty, or

(3) Upon a payment to the amount of £2 or upwards give a receipt for a sum not amounting to £2 or separate or divide the amount paid with intent to evade the stamp duty.

General Provisions as to Offences.

64. Any person who shall contravene any of the provisions of this Act or of any regulations duly made thereunder in respect of which no penalty is herein specially provided, shall be deemed guilty of an offence, and be liable on conviction to a fine not exceeding Ten Pounds Sterling.

Punishment for contraventions generally.

65. All fines and penalties imposed by this Act shall belong to the Government of this Colony.

Fines and penalties.

66. All contraventions of, or offences against, this Act may be prosecuted, and all fines and penalties imposed under this Act may be sued for—

Jurisdiction of Courts for trial of offences.

(a) In the Court of any Magistrate having jurisdiction in cases in which judgment for the fine, penalty, or punishment for the contravention or offence would not otherwise be beyond the Magistrate's jurisdiction;

(b) Or in any other competent Court.

67. Any person who practises or is concerned in any fraudulent act, contrivance, or device, with intent to defraud the Government of any stamp duty, or fee or charge payable under this Act, shall, upon conviction, be liable to a fine not exceeding £20, or, in default of payment, to imprisonment, with or without hard labour, for any period not exceeding six months.

Punishment of fraudulent acts

SCHEDULE I.

Enactments Repealed.	Extent of Repeal.	Schedule
Law No. 38, 1884	The whole	
Law No. 20, 1885	The whole	
Law No. 51, 1887	The whole	
Law No. 33, 1888	The whole	
Law No. 11, 1890	The whole	
Act No. 18, 1895	The whole	

Act 43, 1898.

Schedule II.

SCHEDULE II.

STAMPS ON ANNUAL LICENSES.

	£	s.	d.
1. ADVOCATE OR ATTORNEY	5	0	0
2. AGENT (not being a Commercial Traveller), whether Law Agent practising in any Magistrate's Court, Forwarding Agent, Broker, Land and Estate Agent, or other Agent Licenses to Shipping or Landing Agents shall be issued by the Collector of Customs.	5	0	0
<i>Exemptions.</i>			
(a) Stock and Sharebrokers coming within the provisions of Law No. 31, 1888.			
(b) Touts coming within the provisions of Act No. 36, 1896.			
(c) Agents, whose business as agents consists solely in dealing with Colonial Produce.			
3. APOTHECARY, CHEMIST, OR DRUGGIST	5	0	0
<i>Exemptions.</i>			
Those carrying on business in any Borough or Statutory Township.			
4. APPRAISER OR VALUATOR:			
(a) Carrying on business in Pietermaritzburg or Durban			
	5	0	0
(b) Carrying on business elsewhere			
	3	0	0
5. ARCHITECT, or any person who prepares designs and specifications for buildings, or supervises the execution or erection of the buildings, or who performs work usually done by an architect	5	0	0
6. AUCTIONEER:			
(a) Carrying on business in Pietermaritzburg or Durban			
	15	0	0
(b) Carrying on business elsewhere			
	5	0	0
7. BAKER	3	0	0
8. Keeping a Public Billiard Table, for each Table	7	10	0
BOOKSELLER. See Stationers.			
9. BOND WAREHOUSE, or keeping a Warehouse for Bonded Goods, in respect of each Warehouse	10	0	0
10. BUTCHER:			
(a) Carrying on business in any Borough or Statutory Township			
	5	0	0
(b) Carrying on business elsewhere			
	3	0	0
CHEMIST. See Apothecary.			
11. ENGINEER, whether Civil, Mining, Electrical, Marine or other	5	0	0
<i>Exemption.</i>			
Mechanical Engineer.			
12. COMMERCIAL TRAVELLER, being the agent or representative who in Natal solicits orders for the purchase of the goods or things of any person, firm, or company which does not itself carry on a licensed business and also have a place of business in Natal	10	0	0
13. CONVEYANCER, being any person who prepares deeds of transfer or hypothecation, or who, for reward, draws or prepares Wills or any other documents for another person	5	0	0

	£	s.	d.	Act 43, 1898.
14. DENTIST	5	0	0	Schedule II
DRUGGIST. See Apothecary.				
DOCTOR. See Medical Practitioner.				
DEALER. See Wholesale and Retail.				
15. FIREARMS, dealer in	5	0	0	
16. HAWKER OR ITINERANT TRADER OF Imported Goods, and for each person, agent or servant so employed (a)	5	0	0	
17. INSURANCE AND ASSURANCE COMPANY, SOCIETY, AND ASSOCIATION, carrying on its business, or any part thereof, or having any office or place of business within the Colony	50	0	0	
<i>Exemption.</i>				
Any Company, Society, or Association, which proves that its total receipts within the Colony for the full year preceding have not exceeded £1,000, the stamp duty shall not exceed...	25	0	0	
18. INTERPRETER OR TRANSLATOR	2	10	0	
19. JOINT STOCK COMPANY, being any company, syndicate, or association of persons having its capital divided into shares for the transfer of which the express consent of all the members is not necessary, and carrying on its business, or any part thereof, or having any office or place of business within the Colony:—				
(a) For each £1,000 or fraction of £1,000 of paid up capital	1	0	0	
not, however, in any case exceeding £50 or being less than £1				
(b) Joint Stock Banking Companies with a paid up capital exceeding £100,000	100	0	0	
<i>Exemptions.</i>				
(1) In respect of any Company which proves that its total receipts within the Colony for the full year preceding have not exceeded £1,000, the stamp duty shall not exceed	10	0	0	
(2) In respect of any Company that proves that its total receipts within the Colony for the full year preceding have not exceeded £2,000, the stamp duty shall not exceed	20	0	0	
(3) In respect of Joint Stock Companies whose Head Offices are situate out of Natal, and whose business in Natal consists merely in the registration of transfers of shares and the communication of information to members and the like, the stamp duty shall not exceed	5	0	0	
(4) Joint Stock Companies being wound up or liquidated.				
20. LAND SURVEYOR	5	0	0	
21. MEDICAL PRACTITIONER	5	0	0	
22. MILLER:				
(a) Carrying on business in Pietermaritzburg or Durban	5	0	0	
(b) Carrying on business elsewhere	3	0	0	
23. NEWSPAPER PUBLISHERS:				
(a) For every daily Newspaper published in the Colony in conformity with Law No. 9, 1858...	10	0	0	
(b) For all other Newspapers under the same Law, issued at intervals not exceeding seven days...	5	0	0	

Act 43, 1898.

Schedule II.

					£	s.	d.
24.	NOTARY PUBLIC ...	...	...	...	5	0	0
25.	PAWNBROKER ...	...	...	...	5	0	0
26.	RETAIL DEALER ...	...	...	...	5	0	0

Exemptions.

(a) ~~Dealers in Colonial Produce alone.~~

(b) In respect of the business of any Retail Dealer who shall be able to prove that his gross receipts for the full year immediately preceding have not exceeded £500, the stamp duty for the year immediately succeeding shall not exceed 2 10 0

27.	STATIONERS, BOOKSELLERS, and the like	3	0	0
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Exemption.

Those carrying on business in any Borough or Statutory Township.

TRANSLATOR. See Interpreter.

28.	WHOLESALE DEALER	10	0	0
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GENERAL AND SPECIAL EXEMPTIONS UNDER SCHEDULE II. (LICENSES).

1. Dealers in wines, spirits, or spirituous liquors do not come within the provisions of this Schedule.
2. No persons who are solely and exclusively engaged and employed in any occupation by and on behalf of the Government of Natal, or any public department thereof, shall be liable to take out a license in respect of such occupation.
3. [Repealed by Act No. 20, 1899.]
4. No Savings Bank Society, Building Society, Benefit Society, or Friendly Society, whether established under any Law or not, and no Society or Association registered under Law No. 35, 1874, shall be liable to take out a license.
5. Persons carrying on or exercising any occupation, or doing any act within any Municipal Borough or any Township established under the provisions of any Law or Act, shall not be liable to take out a license under this Act in respect of any such occupation or act for which a license shall be lawfully imposed by the Town Council or Town Board (A).

SCHEDULE III.

Stamps on Deeds.

				£	s.	d.
1.	ACCOUNT of the administration of any Estate (other than Insolvent Estates), whether by executors, trustees, guardians, curators, or others, appointed either by Order of Court or last Will or otherwise.					
	For every £100 or fraction of £100 available for distribution amongst other than creditors ...			0	5	0
	ACKNOWLEDGMENT OF DEBT, see Bill of Exchange.					
2.	ADMISSION, or any letter or document duly admitting or authorising any one to practise,					
	(a) As a Land Surveyor ...	...	...	10	0	0
	(b) As a Notary Public ...	...	...	10	0	0

(A) See Act 20, 1899, s. 2, post, which adds a further section hereto, numbered 6.

	£	s.	d.	Act 43, 1898. Schedule III.
3. AGREEMENT OR CONTRACT, or any memorandum thereof made in Natal, and not otherwise specially charged with stamp duty, whether the same be only evidence of a contract or obligatory upon the parties ...	0	1	0	
<i>Exemptions.</i>				
(a) Agreement or contract or memorandum, the matter whereof is not of the value of £5.				
(b) Agreement or contract or memorandum for the hire of any labourer, tradesman, artificer, manufacturer, or menial servant.				
(c) Agreement made for, or relating to, the sale or carriage of goods, wares, merchandise, or live stock.				
(d) Agreement or contract or memorandum made between the Master and Mariners of any ship or vessel for wages on any voyage coastwise from port to port within Natal or the Colony of the Cape of Good Hope.				
ALLOTMENT. See Letter of Allotment.				
4. APPRAISEMENT OR VALUATION of any thing or matter whatsoever or of any interest therein on every £5 or fractional part of £5 of the amount of such appraisement or valuation ...	0	0	3	
but in no case exceeding 10s.				
<i>Exemptions.</i>				
(a) Appraisement or valuation made under order of any Court or public officer.				
(b) Appraisement or valuation of property of a deceased person made for the information of an executor or any officer of Court for the purposes of inventory of electing an executor dative.				
5. ARBITRATION AND AWARDS :				
Every deed of submission to arbitration ...	0	10	0	
Every award or umpirage ...	0	10	0	
<i>Exemptions.</i>				
Deeds of submission and awards thereunder in which the amount or value of the property, or of the right in dispute does not exceed £20 (A).				
6. ASSIGNMENT, DEED OF :				
Every deed assigning property in trust for creditors generally, or made between a debtor and his creditors, or any of them, or a trustee on their behalf, relating to the debts or liabilities of the debtor and his release therefrom, or the distribution, inspection, management and winding up of his estate, or any such matters ...	1	0	0	
7. ASSUMPTION :				
Deeds of assumption, substitution, or surrogation, or any deed appointing any executor, guardian, curator, trustee or the like (save and except Wills or Codicils)...	0	10	0	

(A) See Act 20, 1899, s. 3, post, which adds a further exemption.

Act 43, 1898.
Schedule III.

	£	s.	d.
8. BILL OF EXCHANGE OR PROMISSORY NOTE, as defined by Law No. 8, 1887, acknowledgment of debt, I.O.U., or Good For. For every £50 or fractional part of £50 of the amount or value thereof	0	0	3
<i>Exemptions.</i>			
(a) Bank Notes.			
(b) Draft or order drawn by any Banker upon any other Banker not payable to bearer or order and used solely for the purpose of settling or clearing any account between such Bankers.			
(c) Letter written by a Banker to another, directing the payment to a payee of any sum of money, the same not being payable to bearer or order, and such letter not being sent or delivered to such payee.			
(d) Letters of credit granted in Natal, authorising drafts to be drawn out of Natal payable in Natal.			
(e) Coupon or warrant for interest attached to and issued with any security, or with an agreement or undertaking for the renewal or extension of time for payment of a security.			
(f) Promissory note, acknowledgment of debt, I.O.U. or Good For, so long as it is retained by the creditor to whom it was first delivered, and has not been endorsed, or transferred, or ceded, becoming liable, however, upon any delivery to another person than the debtor, or upon cession, transfer, or endorsement to be then duly stamped.			
(g) Where a Bill of Exchange is drawn in a set, and one of the set is duly stamped, the other or others of the set, unless issued or in some manner negotiated apart from the stamped bill, shall be exempt from stamp duty.			
9. [BILL OF LADING, Ship's Copy (A)], of or for any goods, merchandise, or effects to be exported or carried coast-wise, executed and issued in Natal	0	0	6
10. BOND:—			
(a) As to bond by which security, other than a mere personal obligation, is given or intended to be given—see Mortgage Bond.			
†(b) By which a person is bound as a surety, not exceeding £100	0	1	0
exceeding £100	0	3	0
or where no amount is stated	0	5	0
But if relating to goods in bond for the purposes of Customs, then if not exceeding £100	0	1	6
and if exceeding £100, then for every additional £100, or fraction thereof	0	0	6
(c) Any other bonds not comprised in either of the above sub-sections	0	3	0

(A) Words in brackets expunged by Act 20, 1899, s. 5, post, and the following words substituted: "Bill of Lading or duplicate thereof."

Exemptions.

Act 43, 1898.
£ s. d. Schedule III.

- (a) Bond in connection with the administration of the Estate of any common seaman, marine, or soldier dying in the service of Her Majesty, given by his widow, child, father, mother, brother, or sister.
- (b) Bond given by any person where the Estate to be administered (whether intestate, insolvent, or the like), does not exceed £100 in value.
- (c) Bond given by any public officer in respect of the performance of his duties.

BOTTOMRY BOND. See Mortgage Bond.

11. BROKER'S NOTE: for each sale or purchase 0 0 1

Exemption.

Broker's Note for any sale or purchase of a value not exceeding £5.

CERTIFICATE. See Share Certificate.
See Notarial Acts.

12. CERTIFICATE issued by the Master of the Supreme Court in respect of matters connected with his Office ... 0 3 0
CESSION. See Transfer.

13. CHARTER PARTY including therein any agreement or contract for the charter of any ship or vessel, or any memorandum, letter, or other writing between the Captain, Master, or owner of any ship or vessel, and any other person, for and relating to the freight or conveyance of any money, goods, or effects on board of the ship or vessel—
(a) For a ship not exceeding 200 tons burthen ... 0 15 0
(b) For a ship over 200 tons burthen ... 1 10 0

14. CHEQUE, as defined by Law No. 8, 1887 0 0 1
CONTRACT. See Agreement.
CONTRACT NOTE. See Broker's Note.

15. COPY, as defined by Section 40, or Duplicate Original. Half the stamps required for the original not exceeding in any case 0 5 0

CONVEYANCE. See Transfer.

16. CUSTOMS DOCUMENT:
On each original prime entry for the particulars of goods inserted therein from each Bill of Lading ... 0 0 6
On each original home consumption entry 0 0 6
On each original warehouse entry for the particulars of goods inserted therein from each Bill of Lading 0 0 6
On each original ship's clearance, executed and issued in Natal 0 10 0
On each original transit entry 0 1 6

See also Bill of Lading and Bond.

DEBENTURE. See Marketable Security.

17. DECLARATION OF PURCHASER AND SELLER, donor, donee, agent, or any other declaration required in connection with the transfer of immovable property 0 1 0

DRAFT FOR MONEY. See Bill of Exchange.

DUPLICATE ORIGINAL. See Copy.

18. GRANT OR TRANSFER OF IMMOVABLE PROPERTY issued by the Governor or by or on behalf of the Government of Natal for every 10 acres or fraction thereof ... 0 0 3

HOME CONSUMPTION ENTRY. See Customs Document.

Act 43, 1898.

Schedule III.

INSURANCE. See Policy.

£ s. d.

- | | | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|----|---|
| 19. LEASE OR MEMORANDUM of lease or any document operating as a contract of lease, or agreement to let ... | 0 | 1 | 0 |
| 20. LETTER OF ALLOTMENT AND LETTER OF RENUNCIATION OF any document having effect as such— | | | |
| (a) Of any share of any company or syndicate or proposed company or syndicate ... | 0 | 0 | 1 |
| (b) In respect of any loan raised or proposed to be raised by any company or syndicate or proposed company or syndicate or by any municipal body or corporation or local township | 0 | 0 | 1 |
| LETTER OF CREDIT. See Bill of Exchange. | | | |
| LETTER OF ATTORNEY. See Power of Attorney. | | | |
| 21. LICENSE FOR MARRIAGE without publication of banns ... | 3 | 10 | 0 |
| 22. MARKETABLE SECURITY for every £10 or fraction of £10 of the money thereby secured, or the nominal amount thereof, or the subscribed value as the case may be, whichever be greater ... | 0 | 0 | 3 |

Exemptions.

- (a) Any marketable security of a Corporation or Joint Stock Company issued solely to replace, and not in addition to, a marketable security of the same value which has been lost or destroyed, or has become unfit for use.
- (b) When any such marketable security 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.

Provided that any marketable security for which exemption is claimed shall bear on its face a certificate bearing the same date as that of issue, and signed by two Directors and the Secretary, Treasurer, or like officer of the Corporation or Company, setting forth clearly the circumstances entitling to exemption, and giving the number of the original security replaced or divided.

MARRIAGE LICENSE. See Licenses.

MARRIAGE SETTLEMENT. See Settlement.

23. MORTGAGE BOND:

- | | | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|----|---|
| (a) By which any property (movable or immovable, corporeal or incorporeal) or right to property is hypothecated or intended to be hypothecated, then for every £10 or fraction of £10 of the nominal amount of value thereof ... | 0 | 0 | 6 |
| (b) Where no amount is stated in the bond, then if there is a declaration either in the bond or filed with the Registrar of Deeds that the amount or value of the obligation to be secured does not or will not exceed £1,000 ... and in other cases ... | 2 | 10 | 0 |
| (c) But where a bond is merely a collateral or auxiliary, or additional, or substituted security to another existing and duly stamped bond, then the stamp required on such further bond shall not exceed £1 in value. | 5 | 0 | 0 |

£ s. d. Act 43, 1898.
Schedule III.

24. NOTARIAL DEEDS AND ACTS (not elsewhere provided for under other headings, such as Bond, Lease, Power of Attorney, Protest, and other than Notes of Protest, &c.)	0	2	6
25. POLICY OF INSURANCE	0	1	0

Exemption.

Policy of Life Assurance.

26. POWER OF ATTORNEY, Mandate, Commission, or other instrument of a similar nature:—			
(a) For the sole purpose of appointing or authorising a proxy to vote at any meeting, poll, ballot, or the like, at which votes may be given by proxy, whether the persons named in such instrument be one or more... ..	0	0	3
(b) For any special purpose or thing	0	1	0
(c) To act generally for the grantor	0	5	0
(d) Of any kind whatsoever not hereinbefore described	0	5	0

Exemptions.

Letter or Power of Attorney for the receipt of any special sum of money not exceeding £5.

PRIME ENTRY. See Customs Documents.

PROMISSORY NOTE. See Bill of Exchange.

27. PROTEST:—			
(a) Of Bill of Exchange, Promissory Note, Sea, or other Protest	0	3	0
(b) Note Protest	0	1	0
PROXY. See Power of Attorney.			
28. RECEIPT as defined in Section 42	0	0	1

Exemptions.

- (a) Receipt given for money deposited in a Bank (otherwise than a fixed deposit), to be accounted for and expressed to be received of the person to whom the same is to be accounted for.
- (b) Acknowledgment by any banker of the receipt of any Bill of Exchange or Promissory Note for the purpose of being presented for acceptance or payment.
- (c) Receipt written upon a Bill of Exchange or Promissory Note duly stamped.
- (d) Receipt endorsed or otherwise written upon or contained in any instrument liable to stamp duty and duly stamped, acknowledging the receipt of the consideration money therein expressed, or the receipt of any principal money, interest, or annuity thereby secured or therein mentioned.
- (e) Receipt written upon any Post Office Order for the payment of money.

RENUNCIATION. See Allotment.

SCRIP CERTIFICATE. See Marketable Security.

29. SETTLEMENT. Any deed whereby any property or right to or interest in property is settled or agreed to be settled or is given or agreed to be given in			
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Act 43, 1898.
Schedule III.

	£	s.	d.
any manner whatsoever to or for the benefit of any person or to a trustee for the benefit or on behalf of any person (A):			
(a) For every £10 or fraction of £10 of the amount or value of such property	0	0	6
(b) Where a Policy of Insurance forms such settled property or a portion thereof, such Policy shall be valued for the purposes of stamping at one-twentieth of the sum insured.			

Exemptions.

- (a) Any Wills and Codicil or the like.
- (b) Any deed of appointment relating to any property in favour of persons specially named or described as the objects of a power of appointment, where duty has been duly paid in respect of the same property upon the settlement creating the power.

SHARE CERTIFICATE. See Marketable Security.
SHIP'S CLEARANCE. See Customs Documents.

30. TRANSFER :

(a) Of any immovable property or interest or right in immovable property— For every £10 or fraction of £10 of the amount of consideration or value of the property or right	0	0	6
(b) Of any marketable securities (B) of whatever nature, or any right or interest therein— For every £10 or fraction of £10 of the amount paid up thereon	0	0	3
(c) Of any bond, mortgage bond, or unregistered lease or any right or interest therein ...	0	2	0
(d) Of any registered lease or any right or interest therein— For every £10 or fraction of £10 of the amount of consideration or value of the right to the cessionee	0	0	6

Exemptions.

- (a) Any grant or transfer of immovable property or of any interest therein issued by or on behalf of the Government of Natal.
- (b) In respect of any transfer made for effectuating the appointment of a new or another trustee or executor of the same property upon the same trusts, the stamp duty shall not exceed 10s.

VALUATION. See Appraisement.

31. VOTING PAPER :

Any deed for the purpose of voting by any person entitled to vote at any meeting of shareholders, or members, or contributors to the funds of any company, society, or institution	0	0	1
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(A) See, as to covenant by husband in ante-nuptial contract to insure his life without reference to amount, *Brown and Fisher, and Registrar of Deeds*, 10 N.L.R. 152. See also *In re Addison and Lloyd*, 10 N.L.R. 187. Both these cases refer

to the repealed Stamp Law, No. 38 of 1884.

(B) A fire insurance policy is not a marketable security within the definition given in sec. 1, ante (*In re License and Stamp Act, 1898*, 21 N.L.R. 7).

WARRANT OF ATTORNEY. See Power of Attorney.
 WAREHOUSE ENTRY. See Customs Documents.

Act 43, 1898.
 Schedule III.

GENERAL AND SPECIAL EXEMPTIONS UNDER THIS SCHEDULE III.
 (STAMPS ON DEEDS).

1. All cheques and bills of exchange by or upon the Colonial Treasurer and Sub-Accountants of the Colonial Treasury

2. Cheques, drafts, or orders drawn upon any bank by an officer of a Public Department of the Colony for payment of money out of a public account.

3. All receipts, vouchers, or certificates required to be given to, or by the Government, or any public officer in his official capacity for the payment or receipt of public money.

4. All contracts, agreements, or bonds entered into by the Government, or any public officer in his official capacity.

5. Bonds required of officers employed by or under the Government of Natal for the proper discharge of their duties.

6. Affidavits in proof of debts in insolvent, intestate, testate, or other estates.

7. Stock, debentures or obligations of, and issued by or on behalf of the Government of Natal and transfers thereof.

8. Bonds given to the Sheriff, Messengers, Clerks of Court, or other officers for executing the orders or writs of any Court in the Colony:—

- (a) In criminal matters, and
- (b) In connection with arrests or executions.

Act No. 20, 1899.

“To amend the License and Stamp Act, 1898.”

[28th August, 1899.]

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. Section 3 of the General and Special Exemptions under Schedule II. of the License and Stamp Act, 1898, shall be repealed, and in lieu thereof the following shall be inserted:—

Amendment of
 Sched. II., Act
 43, 1898.

If any person holding a license for one of the occupations mentioned in any of the following sub-sections shall lawfully take out for the same premises a license not requiring a higher stamp for any of the other occupations mentioned in the same sub-section, such further license shall not require to be stamped: Provided that in the case of any occupation the license for, or exercise of which, is regulated by any special law, this section shall not be deemed to authorise the issue of a license unless the requirements of such law shall have been first complied with.

- (a) Agent (other than Law Agent),
 Apothecary, Chemist and Druggist,
 Retail Dealer,
 Stationer;

Provided always that in case the combined gross receipts of any person carrying on any or all of such occupations have not in the preceding year exceeded £500, or in case such person shall not have carried on any of such occupation in the preceding year, then the stamp duty on the license shall be £3.

Act 20, 1899.

- (b) Advocate;
Attorney;
Law Agent;
Conveyancer;
Notary Public.
- (c) Architect;
Civil Engineer;
Land Surveyor.

Effect of license to member of a firm.

2. The following Section shall be added to the general and special exemptions under Schedule II. of the License and Stamp Act, 1898:

6. The license to any member of a partnership or firm shall operate as a like license at the place named in the license to any other person for the time being a member of such partnership or firm, and stated so to be in the license.

Submissions.

3. The following exemption shall be added to Item 5 of Schedule III. of the License and Stamp Act, 1898:—

- Contracts and other deeds shall not require to be stamped under this clause as deeds of submission merely by reason that they incidentally provide for submission in the event of differences arising.

Saving of rights and liabilities created prior to Act.

4. Nothing in this Act shall affect to the prejudice of the holder the validity of any license issued before the date of the commencement of this Act, or be deemed to create any claim or liability for a refund of Stamp Duties, or otherwise, in respect of the Stamp Duty upon any license so issued, which shall be in like position as if this Act had not been passed.

Amendment of item 9, Sched. III., Act 43, 1898.

5. The words "Bill of Lading, Ship's copy," occurring in Item 9 of Schedule III. of the License and Stamp Act, 1898, shall be expunged, and in lieu thereof there shall be inserted the words "Bill of Lading or duplicate thereof."

Construction.

6. This Act shall be read and construed together with the License and Stamp Act, 1898, and shall come into operation on the day after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (A).

II. CUSTOMS.

Law No. 7, 1880.

"To amend the Laws relating to Customs Duties, so far as to admit free of duty the Uniforms of Officers serving in the Transvaal" (B).

[20th March, 1880.]

WHEREAS it is expedient to amend the Laws relating to Customs Duties:

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

Articles to be admitted free of duty (except Registration charges).

1. From and after the commencement of this Law, the articles in the Schedule to this Law annexed shall be admitted into this Colony free of Customs Duty, except registration charges, as set forth in Schedule C of Law No. 1, 1867 (c).

(A) Promulgated in G.G. 29th Aug. 1899.

was passed during the period of annexation of the Transvaal Territory.

(B) It will be observed that this Law

(c) Repealed by Act 23, 1894.

2. The provisions of Law No. 1, 1867, or of any other Customs Law in force in this Colony, in so far as they are repugnant to or inconsistent with any of the provisions of this Law, shall be and the same are hereby repealed. Law 7, 1880.
Law 1, 1867, or others repugnant to this Law, repealed.

3. This Law shall commence and take effect from and after the publication thereof in the "NATAL GOVERNMENT GAZETTE" (A). Commencement

SCHEDULE.

Uniforms imported by and for the use of any Officers of Her Majesty's Civil or Military Service, serving on full pay in the Transvaal Territory (B). Schedule.

Law No. 2, 1893.

"To facilitate Trade between Natal and the South African Republic."

[31st May, 1893.]

WHEREAS the South African Republic did, as from the First day of December now last past, with the previous permission of the Government of this Colony, establish a Customs Agency in this Colony, and did make arrangements, with the view to facilitate Trade between this Colony and the South African Republic, whereby, in order to avoid the necessity for the stoppage, detention, and examination of goods from Natal on their crossing the border between this Colony and that Republic, Customs dues and charges of the said Republic on goods from Natal may be paid or secured to agents of the said Republic stationed in Natal:

AND WHEREAS legislation is required in order to enable the said Customs Agency of the South African Republic fully and effectually to carry out the objects and intentions of the said agency:

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

1. All contracts already made, or hereafter to be made, by, or on behalf of, any person in this Colony to, or with the Natal Customs Agency of the South African Republic, or to or with any officer or person connected therewith, or with the Government of the said Republic in respect of Customs matters of the said Republic, shall be as binding and effectual to all intents and purposes and enforceable in the same manner as ordinary contracts between private persons resident in this Colony. Contracts relative to Customs made in Natal with S. A. R. officers or Government to be valid.

2. The word "contract" shall, in and for the purposes of this Law, be deemed to include any obligation, engagement, or promise, concerning any such subject-matter as in the first section hereof is specified. Meaning of "contract."

3. No person sued in this Colony under any such contract, as in the first section hereof specified, so made by or on his behalf, respecting any such subject-matter as aforesaid, shall be entitled to raise any exception or defence that the claim is made on behalf of a Foreign Government and in respect of the Custom Laws of a Foreign State. Exception barred.

(A) March 23, 1880.

(B) See Act 13, 1899, ss. 77 to 79, post.

Act No. 8, 1895.

"To amend Law No. 8, 1889, entitled 'Law to amend Ordinance No. 6, 1855, entitled "Ordinance for the general management and regulation of the Customs in the District of Natal, and the Customs Duties and Transit Dues Law, 1886."'"

[17th July, 1895.]

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:—

Amendment of
Law 8, 1889
(now repealed).

1. It shall be lawful for the Collector of Customs to accept, in lieu of special bonds under sections 5 of Law No. 8, 1889, and in lieu of cash deposits under section 6 of the said Law, general security by bond, with two sufficient sureties, to the satisfaction of the Collector or other principal officer of Customs, for the fulfilment of all guarantees which may be given under section 2 of the said Law by the agent named in the Bond (A).

2. [Repealed by Act No. 50, 1898.]

Act No. 6, 1898.

"For the better protection of the Customs and Excise Revenue in certain cases" (B).

[19th May, 1898.]

Act No. 11, 1898.

"To afford certain relief in respect of the increased Duties of Customs and Excise imposed or secured by Bonds or Deposits under the provisions of Act No. 6, 1898."

[28th June, 1898.]

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:—

Act 6, 1898, not
to apply to
increased duties
proposed during
present Session.

1. Nothing contained in Act No. 6, 1898, entitled Act "For the better protection of the Customs and Excise Revenue in certain cases" shall apply or be deemed to have applied to any increased Duties of Customs or Excise, the expediency of which may have been affirmed by any Resolution proposed in the House of Assembly, or provided for in any Bill sent down by the Governor to the House of Assembly, during the present Session of Parliament before the date of the passing of this Act.

Discharge of
bonds already
given and re-
payment of
deposits.

2. All bonds which may have been given for any such increased duties, as aforesaid, shall be deemed to be discharged and of no effect, and any Duties of Customs or Excise which may have been paid or deposited in excess of the duties imposed by the Customs and Excise

(A) As Law No. 8, 1889, was repealed by Act 13, 1899, post, this amending section is obsolete, and the whole Act apparently becomes null, but it is here inserted as there has been no direct repeal.

(B) This Act is repealed, so far as relates to the Customs, by Act 13, 1899, post; it is therefore omitted under this head, but appears under the next subtitle, "Excise."

Laws and Acts now in force may, upon application to the Collector of Customs or the Controller of Excise, as the case may be, upon due proof of the payment or deposit, be refunded or repaid to the persons by whom the same were paid. Act 11, 1898.

Act No. 50, 1898.

“To provide for the Entry of the Colony of Natal into a South African Customs Union, and to amend the Laws relating to the Customs.”

[12th December, 1898.]

WHEREAS it is expedient to provide for the entry by this Colony into a South African Customs Union, and to amend the laws relating to Customs Duties, and to make provision for the equitable distribution of Customs duties:

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:—

1. This Act may be cited as the “Customs Union and Customs Duties Act, 1898.” Short title.

2. The Governor in Council shall by proclamation notify the names of the Colonies, States, and Territories constituting a South African 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, State, or Territory in South Africa having a civilised Government. Notification of countries constituting or admitted to Customs Union.

3. The Ordinance, Laws and Acts enumerated in the First Schedule of this Act shall be repealed to the extent shown in the third column of the said Schedule, but without prejudice to anything done, or any appointment made, or any right acquired, or liability incurred thereunder. Repeal of Laws.

4. In lieu of the duties imposed by the repealed Laws and Acts, there shall be raised, levied, collected, and paid upon the goods, merchandise, and things imported or brought into this Colony the duties as set forth in the Second Schedule, Classes I., III., and IV., of this Act; and all such duties shall, upon collection, be paid to the general revenue of the Colony. Imposition of Customs duties.

5. The goods, merchandise, and things set forth in Class II. of the said Second Schedule shall, subject to the provisions of Section 10 of this Act, be admitted into this Colony free of duty. Free list.

[Sections 6, 7, 8, and 9, repealed by Act No. 13, 1899.]

10. A duty of Customs shall be levied and imposed upon spirits distilled from the produce of and in any Colony, State, or Territory within the Union when imported into this Colony, which duty shall be equivalent to the duty imposed by way of excise according to the law of this Colony, at the time of such importation, upon spirits of the like class here distilled: Provided that if an excise duty on any spirits so imported shall in manner provided in the Customs Regulations be proved to have been lawfully paid within the Union, the duty of Customs by this section levied and imposed shall be reduced by the amount of such excise duty so paid elsewhere. Provided also that, subject to 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, State, or Territory within the Union from the produce of the vine and imported into Natal solely for use by Chemists and Druggists in the preparation of medicines, Duty on spirits made in the Union from produce of a country of the Union.

Rebate upon certain spirits of wine.

Act 50, 1898.

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 case see fit to do so, to require that the medicines or other preparations as aforesaid shall be made in bond.

Suspension of duty on foreign flour and meal for home consumption.

11. Notwithstanding anything to the contrary contained in this Act, the Customs duty imposed by this Act upon flour wheaten, and wheaten meal, including pollard, manufactured from other than South African wheat, and intended for consumption in this Colony, shall be suspended during a period of three years from the date of the commencement of this Act (" Vide " Schedule II, Class V.): Provided that such suspension shall not apply to the duty upon any flour wheaten, or wheaten meal, including pollard (not being manufactured from South African wheat), which may be imported into and removed from this Colony into any other Colony, State, or Territory in the Union, and the full duty imposed by this Act shall be collected or recovered thereon.

Bounty payable during such suspension on flour and meal from the Union.

12. So long as such suspension shall continue in force a bounty equivalent to the rate of Customs duty so suspended shall be paid by the Government of Natal to the Government of any Colony, State, or Territory within the Union upon all flour wheaten, or wheaten meal, including pollard, manufactured within the Union solely from South African wheat and imported upon a due declaration from such Colony, State, or Territory for consumption within this Colony.

Such payment shall be made in accordance with regulations mutually approved of by the Governor of this Colony and the Government to which such payment is to be made.

Rebate on wool-washer's soap.

13. The Governor in Council may by proclamation allow a rebate of the Customs duties upon soap imported for and used exclusively in connection with the industry of wool washing.

Payment of proportion of duty to Government of Union country, to which goods are removed.

14. Whenever any goods imported or warehoused on importation into this Colony shall be removed to and for consumption in any Colony, State, or Territory within the Union, there shall be payable to the Government of such Colony, State, or Territory eighty-five per cent. of the Customs' Union duties collected under this Act on the said goods.

Rebate on goods removed to country outside the Union.

15. The Governor in Council may, from time to time, by proclamation, grant a rebate of 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, State or Territory, outside the Union.

Collection and distribution of duties on goods imported in bond from bonded warehouses in the Union—(a) for home consumption; (b) for removal beyond Union.

16. (a) If any goods shall be imported in bond from a bonded warehouse in any other Colony, State or Territory, within the Union, for consumption in this Colony, the full Customs duties appointed by this Act shall be levied and paid upon such goods, and the Governor of Natal shall pay over to such Colony, State or Territory, fifteen per centum of such duties.

(b) If any goods shall be so imported as last aforesaid, for removal to a place beyond the limits of the Union, and not for consumption in Natal, there shall be levied and collected, and paid over to the Government of the Colony, State or Territory from which the goods were imported, the full Customs duties upon such goods, less only such rebate of duties as may be granted thereon on account of such removal, under regulations from time to time agreed upon, by and between the Colonies, States and Territories of the Union.

17. Under the authority of the proper Officer of Customs, and subject to such regulations as may be made in that behalf, goods warehoused under bond in any bonded warehouse lawfully appointed, at a free warehousing port or station in this Colony may, without the payment of duty before removal, be removed under bond from such warehouse into any Colony, State or Territory within the Union. Act 50, 1898.
Removal of goods in bond to a country in the Union.

Such bond shall be in accordance with the regulations, and shall secure the due warehousing of such goods in such Colony, State or Territory, whether such goods be or be not intended for consumption therein.

18. [Repealed by Act No. 13, 1899.]

19. The Governor in Council may, subject to the necessary votes of supply, appoint such officers as may be necessary for the carrying out of this Act, and for the better protection of the trade and revenue of the Colony. Appointment of officers.

20. [Repealed by Act No. 13, 1899.]

21. [Repealed by Act No. 13, 1899.]

22. 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, State, or Territory of its share of the Customs duties collected in this Colony;
- (c) For the rebate of Customs duties authorised by this Act;
- (d) For the warehousing and removal of the goods referred to in this Act, and for their conveyance to any place within the 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.

23. All rules and regulations which at the time of the passing of this Act were in force under the provisions of any of the Laws or Acts hereby repealed shall, so far as they may be consistent with this Act, remain in force until they be repealed, or their place be taken by regulations made under this Act, and until then shall be deemed to be regulations made under the provisions of this Act. Saving as to existing regulations.

24. [Repealed by Act No. 13, 1899.]

25. Any person who shall contravene the provisions of this Act, or of any regulation made thereunder, shall be liable to a fine not exceeding Three Hundred Pounds Sterling, and in default of payment to imprisonment, with or without hard labour, for any term not exceeding twelve months, or to both such fine and imprisonment, and all goods removed in contravention of this Act or of any such regulation, and all vehicles or animals made use of in the removal shall become liable to be forfeited. Punishments for contravention of Act or Regulations.

26. [Repealed by Act No. 13, 1899.]

27. This Act shall commence and take effect upon a day to be appointed by the Governor in Council by proclamation (A). Commencement

(A) Took effect 3rd Jan., 1899. See Pn. in G.G. 30th Dec., 1899.

Act 50, 1898.

First Schedule.

FIRST SCHEDULE.

ORDINANCE, LAWS, AND ACTS REPEALED

No. and Year.	Title.	Extent of Repeal.
Ord. 6, 1855.	The Customs Ordinance, 1855.	Section 35.
Laws.		
18, 1866.	Law to repeal Law No. 30, 1855, entitled "Law to amend the Ordinance No. 6, 1855, entitled 'Ordinance for the General Management and Regulation of the Customs in the District of Natal,'" and also to amend the said Ordinance No. 6, 1855.	Section 10.
14, 1885.	To provide for the levying of Customs Duties on spirituous and fermented liquors imported across the inland border of the Colony.	The whole Law.
4, 1886.	The Customs Duties and Transit Dues Law, 1886.	The whole Law.
40, 1887.	To repeal the duty leviable under the "Customs Duties and Transit Dues Law, 1886," upon tobacco imported from certain inland States of South Africa.	The whole Law.
1, 1889.	To continue the Customs Duties and Transit Dues Law, 1886, with certain amendments.	The whole Law.
4, 1889.	To amend the laws relating to Customs Duties.	The whole Law.
9, 1890.	To amend Law No. 4, 1889, entitled "Law to amend the Laws relating to Customs Duties."	The whole Law.
19, 1890.	To continue, with certain amendments, the Customs Duties and Transit Dues Law, 1886.	The whole Law.
4, 1891.	To continue, with certain amendments, the Customs Duties and Transit Dues Law, 1886.	The whole Law.
9, 1892.	To continue, with certain amendments, the Customs Duties and Transit Dues Law, 1886.	The whole Law.
4, 1893.	To continue, with certain amendments, the Customs Duties and Transit Dues Law, 1886, and to extend the provisions of Law No. 6, 1888.	Sections 1, 2, 3, and 4.
Acts		
23, 1894.	To continue, with certain amendments, the Customs Duties and Transit Dues Law, 1886.	The whole Act.
8, 1895.	To amend Law No. 8, 1889, entitled "Law to amend Ordinance 6, 1855, entitled 'Ordinance for the general manage-	

No. and Year.	Title.	Extent of Repeal.	Act 50, 1898. First Schedule.
	ment and regulation of the Customs in the District of Natal," and the Customs Duties and Transit Dues Law, 1886.		
32, 1895.	To amend the Excise Laws.	Section 2.	
14, 1896.	To amend the Customs Laws.	Section 19.	
1, 1898.	To amend Section 35 of Ordinance No. 6, 1855, entitled "Ordinance for the general management and regulation of the Customs in the District of Natal."	The whole Act.	

And so much of any Ordinance, Law, or Act as is repugnant to or inconsistent with the provisions of this Act.

SECOND SCHEDULE.

CLASS I.—SPECIAL RATES.

	£	s.	d.	Second Schedule.
1. Ale, Beer and Cider: All kinds of strength exceeding two per cent. of proof spirit:—				
(a) in vessels of not greater content than one Imperial quart, per Imperial gallon ...	0	1	6	Class I.
(b) in other vessels, bulk or wood, per Imperial gallon ...	0	1	3	
2. Acetic Acid, per Imperial gallon ...	0	3	0	
3. Animals, viz.:—				
(a) mules and geldings, and cattle for slaughter, each ...	1	10	0	
(b) sheep for slaughter, each ...	0	5	0	
4. Beads, known as "Kafir Beads," per lb. ...	0	0	3	
5. Bicycles, Tricycles and Velocipedes, including accessories, per £100 ...	12	10	0	
6. Blasting compounds, including all kinds of explosives suitable and intended for blasting, and not suitable for use in firearms, per lb. ...	0	0	3	
7. Butter, Butterine, Margarine, Ghee and other substitutes for butter, per lb. ...	0	0	3	
8. Candles, per lb. ...	0	0	2	
9. Cement, per 100lbs. ...	0	0	6	
10. Cheese, per lb. ...	0	0	3	
11. Chicory and substitutes for coffee, per 100lbs. ...	0	16	8	
12. Coffee:—				
(a) raw, per 100lbs. ...	0	6	3	
(b) roasted, ground or mixed, per 100lbs. ...	0	16	8	
13. Cocoa and Chocolate, unsweetened, per lb. ...	0	0	1	
14. Cocoa and Milk, Chocolate and Milk, or Coffee and Milk, per lb. ...	0	0	1	
15. Condensed, dessicated or preserved Milk or Cream, per 100lbs. ...	0	4	2	
16. Coals, Coke, or Patent Fuel, per ton of 2,000lbs. ...	0	3	0	
17. Confectionery: including sweetened cocoa or chocolate, honey, jams, jellies, preserves, sweetmeats, 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 100lbs. ...	0	18	9	

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Schedule.

	£	s.	d.
18. Corn and Grain, viz.—Barley, maize, millet, oats, rye, wheat, beans and peas—			
(a) in the grain			
or (b) crushed, flaked, ground, hulled, malted, pearled, split, or otherwise prepared, except oats not in the grain, and bran, per 100lbs.	0	2	0
(c) flour, wheaten or wheaten meal, including pollard, per 100lbs....	0	4	6
NOTE.— <i>Vide</i> Free List and Class V. and Section 11 of this Act.			
19. Dates, per 100lbs.	0	4	2
20. Fish: cured, dried, pickled, preserved, pressed, or smoked, not being of South African catching, per lb.	0	0	1
21. Fodder, viz.:—chaff, hay, lucerne, cloathay, and other fodder, not otherwise described but not including bran, per 100lbs.	0	1	6
22. Fruits: preserved, of all kinds, bottled, tinned or otherwise preserved, including pulp and candied peel, per 100lbs.	0	18	9
23. Fruit: dried, of all kinds, including almonds and nuts, per lb....	0	0	2
24. Ginger: green and dry, per lb.	0	0	2
25. Gunpowder and other explosives suitable for use in firearms, per lb.	0	0	6
(and 7½ per cent. "ad valorem" in addition)			
26. Guns and Gun Barrels, Firearms:—			
(a) Single, per barrel	1	0	0
(b) Double and other, per barrel	0	15	0
(and in either case ½ per cent. "ad valorem" in addition)			
27. Meats:—			
(a) cooked, dried, fresh, chilled, frozen, pressed, pickled, salted, smoked, or otherwise cured or preserved, including lard fats and other similar substances and soups, but not including extracts and essences or fresh beef, and chilled or frozen fresh beef, per lb.	0	0	2
(b) fresh beef and chilled or frozen fresh beef, per lb.	0	0	1
28. Matches:—			
(a) wooden: in boxes or packages of not more than 100 matches, per 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

	£	s.	d.	Act 59, 1898. Second Schedule.
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	
29. Ochre (commonly known as "Kafir Ochre"), per 100lbs.	0	5	0	
30. Oils:—				
(a) not essential, perfumed or fish in vessels of not less than one Imperial quart, per Imperial gallon	0	3	0	
(b) essential or perfumed, per £100	20	0	0	
(c) fish oil, per Imperial gallon	0	1	0	
31. Picks and Hoes, Kafir, each	0	0	6	
32. Pickles, Sauces, Chutneys, Chillies, and other condi- ments, per lb.	0	0	2	
33. Pistols and Revolvers, each	0	5	0	
34. Salt:—				
(a) Rock, per ton of 2,000lbs.	0	2	0	
(b) Common, not including refined or table salt, per ton of 2,000lbs.	0	5	0	
35. Soap, not including toilet soaps and soap powders and extracts, per 100lbs.	0	4	2	
NOTE.— <i>Vide</i> Section 13 of this Act.				
36. Spices, per lb.	0	0	2	
37. Spirits:—				
(a) Perfumed, per Imperial gallon	1	0	0	
(b) Liqueurs and cordials, exceeding two per cent. of proof spirit and methylated spirits, per Imperial gallon	0	15	0	
(c) other sorts, exceeding two per cent., but not exceeding the strength of proof by Sykes' hydrometer, and so on in propor- tion for any greater strength, per Imperial gallon	0	15	0	
NOTE.—The above rates do not apply to spirits distilled from the produce of and in the Union, or to rectified spirits of wine imported in certain cases from any part of the Union. (<i>Vide</i> Free List and Section 10 of this Act.)				
38. Sugar:—				
(a) the produce of the cane, not refined, glucose, golden syrup, molasses, saccharum, and treacle, per 100lbs.	0	3	6	
(b) not cane, and all refined sugars, per 100lbs.	0	5	0	
39. Tallow and substitutes for tallow, per 100lbs.	0	4	2	
40. Tamarinds, per lb.	0	0	2	
41. Turmeric, per lb.	0	0	1	
42. Tea, per lb.	0	0	6	
43. Tobacco:—				
(a) Cigars and cigarillos, per lb.	0	6	0	
(and in addition 7½ per cent. "ad valorem.")				
(b) Goorak or Gooracco and Hookah mixture, and all imitations or substitutes, per lb.	0	6	0	
(c) Snuff, per lb.	0	4	0	
(d) Cigarettes, per lb.	0	4	0	
(e) Manufactured and cut, per lb....	0	3	6	
(f) Manufactured but uncut, per lb.	0	3	0	

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		£	s.	d.
	(g) Not manufactured, but stemmed, per lb.	0	2	6
	(h) Not manufactured and unstemmed leaf, per lb.	0	2	0
44.	Vinegar: of standard strength, fit for immediate use as such (i.e., requiring no more than 40 grains of bi-carbonate of potash to neutralise loz. Troy—			
	(a) in bottles or other vessels of the capacity of not more than one Imperial quart, per Imperial gallon	0	1	0
	(b) do. do. in larger vessels or in bulk, per Imperial gallon	0	0	6
	(c) concentrated extract or essence of greater strength than above, per Imperial gallon	0	3	0
45.	Vegetables:—			
	(a) pickled, pressed, or otherwise preserved, per lb.	0	0	2
	(b) onions, not preserved, per lb.	0	0	1
46.	Wine:—			
	(a) claret, not exceeding 50 per cent. of proof spirit, per Imperial gallon	0	6	0
	(b) other than (a) exceeding 2 per cent. but not more than 50 per cent. of proof spirit, per Imperial gallon	0	9	0
	(and in addition 7½ per cent. ad valorem" on all wines when imported not in wood).			
	(NOTE.—Wine exceeding 50 per cent. of proof spirit to be classed as spirits.)			
47.	Wood:—			
	(a) Unmanufactured (other than teak), per cubic foot	0	0	1
	(b) Planed or grooved (other than teak), per cubic foot	0	0	1½
	(c) Teak, per cubic foot	0	0	3

CLASS II.—FREE.

The following articles shall be exempted from payment of Customs Duties on importation:—

48. Agricultural implements and machinery, and all apparatus and plant usually and principally employed in farming operations.
49. All raw produce of South Africa, and animals bred in South Africa, imported overland.
50. All animals bred and articles grown, produced or manufactured within the Union, except (a) flour wheaten, or wheaten meal, including pollard, manufactured from other than South African wheat, as to which see Class I., Item 18 (c) and Section 11 of this Act; (b) spirits distilled from the produce of and within the Union, if a Customs duty be imposed under Section 10 of this Act.
51. Ambulance materials imported by recognized associations, corps, or hospitals lawfully established for instruction or drill in first aid to the wounded.
52. Anchors and chain cables for the use of ships, tugs, or lighters.
53. Animals living, except mules and geldings, and cattle and sheep for slaughter.

54. Arms, ammunition, appointments and uniforms for the regular Military, Naval, or Volunteer, Imperial, or Colonial Forces of Her Majesty, or for similar or Burgher Forces of any Government belonging to the Union. Act 50, 1898.
Second
Schedule.
Free List.
55. Asbestos packing and boiler composition.
56. Atlases, charts, globes and maps.
57. Bags for flour, grain, manure, produce, sugar, wool, coal and minerals, not including paper bags; and bagging and sackings in the piece.
58. Bands and belting of all kinds for driving machinery, binding twine or harvest yarn, boiler tubes, bolting cloth and mill silk.
59. Band instruments and stands, the "bona fide" property of any Government belonging to the Union, or of a regular military or volunteer corps, and not the property of individuals.
60. Bones, feathers, ivory, hair, hoofs, horns, shells, skins, teeth, wool and other parts of animals, birds, fishes, or reptiles, not being manufactured, polished or further prepared than dried and cleaned, but in their raw and unmanufactured state.
61. Bookbinders' requisites, consisting of boards, cloth, leather, marble paper, skin, thread, tape, vellum, webbing and wire.
62. Books and music, printed, including newspapers and periodicals, not being foreign unauthorised prints of any British or South African copyright work.
63. Bottles and jars of common glass or earthenware; empty or imported full of any article liable to a rated duty and bottles empty commonly used for aerated waters.
64. Boxes, empty, cardboard and wooden, put together or in pieces, or shooks for packing.
65. Brass and copper, and composition metal in bars, ingots, plates, and sheets; plain, including perforated, but otherwise unmanufactured.
66. Bullion, coin, or specie.
67. Carriages, carts, wagons, and other wheeled vehicles the manufacture of South Africa, imported overland.
68. Church decorations, altars, bells, fonts, lecterns, pulpits, organs, plate or vestments and illuminated windows imported by or for presentation to any religious body.
69. Coir, candlewick, cotton, flax, fibre, flock, hemp, and jute: raw, waste or unmanufactured.
70. Consular uniforms and appointments and printed official consular stationery.
71. Cork dust, paper shavings, sawdust, husks, and other waste substances intended and suitable for use only as packing material.
72. Corks and bungs.
73. Cups, medals and other trophies imported for presentation or presented 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: provided that such articles shall, on importation or delivery free from the Customs, bear engraved or otherwise indelibly marked on them the name of the presenter or presentee and the occasion or purpose for which presented.
74. Diagrams, designs, drawings, models, and plans.
75. Diamonds and other gems or precious stones in their rough state.
76. Dye-nuts, gambier, myrobalans, sumach, valonia, and other dye stuff: for leather.
77. Engravings, lithographs, and photographs and enlargements or reproductions of the same.

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Second
Schedule.

Free List.

78. Fire escapes and fire hose and hose-reels.
79. Fire clay, terra alba, and fire bricks.
80. Fish, fresh and fish ova; also dried, cured, or salted fish and raw fish oil of South African catching.
81. Fruit: fresh or green, including cocoanuts.
82. Fruit and other produce, driers or evaporators of.
83. Glue.
84. Guano and other substances, animal, mineral, or vegetable, artificial or natural, suitable for use as fertilisers or manures.
85. Hair cloth and springs for furniture.
86. Ice.
87. Iron and steel: angle, bar, channel, hoop, rod, plate, sheet or T; plain, including perforated and galvanised; rough and unmanufactured; not including corrugated sheets.
88. Lead: bar, pipe, and sheet.
89. Leather: patent enamelled, roan, and morocco, and pig-skin in the piece.
90. Life-boats, belts and buoys, and other life-saving apparatus imported by any recognised society.
91. Machinery fitted to be driven by cattle, electric, gas heat, hydraulic, pneumatic, steam, water or wind power, including spare parts, and apparatus and appliances used in connection with the generating and storing of electric power or gas, but not including electric cable, or wire, or the posts for carrying the same, and not including lamp posts, or lamps, or their fittings.
92. Metal of all sorts in bars, blocks, ingots and pigs for founding, not elsewhere described.
93. Mining buckets, skips, trucks and tubs: wheeled or otherwise; for hauling minerals or ores on rails or wires.
94. Packing or lagging for engines and machinery.
95. Paper for printing books, pamphlets, newspapers and posters, or for lithographic purposes.
96. Paintings, pictures, picture books, and etchings.
97. Pipes, piping and tubes of earthenware or metal of all kinds, for gas, drainage, sewerage, irrigation, water-supply, or pumping, not including down-piping and guttering, or cocks and taps.
98. Potash and soda, carbonate, bi-carbonate, caustic, crystals and silicate.
99. Printing and lithographic inks.
100. Printing, lithographing, paper-cutting, folding, numbering and perforating machines or presses, blocks, formes, fontes, plates, rollers, stones and type; and other apparatus suitable only for use in the bookbinding or printing industries.
101. Public stores imported or taken out of bond by, and "bona fide" for the sole and exclusive use of the Government of Her Britannic Majesty, or the Government of any Colony, State or Territory belonging to the Union, provided that a certificate be delivered to the Customs given under the hand of a principal Imperial, Military, Naval, Civil, Commissariat, or Ordnance Secretary or Officer, or under the hand of a Secretary to any Government within the Union, setting forth that any duty levied on such public stores would be borne directly by the Treasury of his Government: and provided further that no portions of such stores used or unused shall be sold or otherwise disposed of so as to come into the possession of or into consumption by any parties not legally entitled to import the same free of duty, until the intention so to sell or dispose of the stores shall have been notified to the principal Officer of Customs in the Colony, State, or Territory where they were first imported, to whom the

- duty leviable according to the tariff then in force shall be paid by the Government selling or disposing of the stores. Act 50, 1898.
102. Railway construction or equipment requisites, such to mean the following:—rails, sleepers, fastenings for rails or sleepers, girders, iron bridge work, culvert tops, locomotives, tenders, ballast trucks, goods wagons, carriages, trollies, engine water tanks, turntables, permanent or fixed signals and weighbridges. Second Schedule. Free List.
103. Rattans, cane and bamboo unmanufactured.
104. Resin and carbonate of ammonia.
105. Saddle-trees.
106. School furniture and requisites: being all articles certified by the Superintendent-General of Education, or any official appointed for that purpose in any Colony, State or Territory in the Union, to be for use in any school.
107. Sculpture, including casts or models of sculpture.
108. Seeds, bulbs, plants and tubers for planting or sowing only, under such regulations as regards edible kinds as the Customs authorities may impose to safeguard the revenue against diversion into ordinary consumption.
109. Sheep dip, sheep dipping powders, materials suitable only for dip, and dipping tanks.
110. Specimens illustrative of natural history.
111. Sprayers and Sprinklers and other apparatus for destroying pests or diseases in stock, plants or trees.
112. Staves.
113. Steam 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.
114. Sulphur; substances for destroying pests or diseases in stock, plants or trees, and disinfectants.
115. Thread: boot and shoemakers', saddlers' and sailmakers', and seaming twine.
116. Tin and zinc: bar, plate or sheet, plain or perforated, but otherwise unmanufactured.
117. Telegraphs and telephones: materials and instruments for use in construction and working of telegraph and telephone lines.
118. Tobacco the produce of South Africa, imported overland.
119. Tramway construction requisites, such to mean the following:—rails, sleepers, fastenings for rails or sleepers, iron gates, girders, iron bridge work and culvert tops.
120. Vaccine virus and toxin.
121. Vegetables, fresh or green, but not including potatoes or onions.
122. Water boring apparatus.
123. Wine presses and wine pumps.
124. Wine, spirits and beer imported direct or taken out of bond by, and for the sole use of, Commissioned Officers serving on full pay in the regular Military or Naval Forces of Her Britannic Majesty, subject to such regulations as the Customs may make for the due protection of the Revenue, provided that if any such liquors shall be sold or otherwise disposed of to or for consumption by any other person not legally entitled to import the same free of duty without the duty being first paid thereon to the Customs according to the tariff then in force, then they shall be forfeited, and the parties knowingly disposing of such liquors, or into whose possession the same shall knowingly come, shall be liable to such penalties as may be prescribed by law.
125. Wool, straw, hay and forage presses.

- Act 50, 1898. 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.
- Second schedule. 127. Wire rope.
- Free List.

CLASS III.—GENERAL: "AD VALOREM" 7½ PER CENT

128. All goods, wares, or merchandise not elsewhere charged with duty, and not enumerated in the Free List, and not prohibited to be imported into the Union, shall be liable to a duty of 7½ per cent. "ad valorem."

NOTE.—*Vide* Section 9 of this Act.

CLASS IV.—SPECIAL: "AD VALOREM" 20 PER CENT.

The following articles shall be liable to a duty of 20 per cent. "ad valorem":—

129. Blankets and sheets or rugs, cotton or woollen, or manufactures of cotton and wool, commonly used as cotton or woollen blankets or rugs, the single article, in pairs, or in the piece, and coats, jackets, or other apparel made of blanketing or baize.
130. Bon-bons, surprise packets, and crackers, and other similar fancy confectionery.
131. Cards, playing.
132. Carriages, carts, coaches, wagons, and all other wheeled vehicles intended for the conveyance of persons or goods; including finished or fashioned parts thereof, not being metal parts not usually made in the Union, but required in the manufacture of wheeled vehicles therein, but not including bath chairs, perambulators, toy carts, store trucks, or barrows.
133. Extracts and essences of all kinds used as food, flavouring or perfumery, including saccharine.
134. Fireworks of all descriptions.
135. Medicinal preparations not being drugs for dispensing purposes.
136. Perfumery, cosmetics, dyes, powders and soap or other preparations for toilet use, and soap powders and extracts.
137. Shawls.
138. Soup, concentrated or dessicated.

CLASS V.—SPECIAL.

Goods Free of Duty during a period of three years from the commencement of this Act. (Vide Section 11.)

The following articles will be free from Customs duty during a period of three years from the commencement of this Act. (Vide Section 11).

139. Flour, wheaten, and wheaten meal, including pollard manufactured from other than South African wheat, and intended for consumption in this Colony.

THIRD SCHEDULE.

Act 50, 1898.

Articles Prohibited to be Imported.

Third Schedule.

Books, drawings, paintings, prints, photographs, or articles of an immoral or indecent character.

Coin, base or counterfeit.

Articles of foreign manufacture, bearing the name, marks, or brands of manufacturers resident in the United Kingdom. (Imp. Act 39 and 40, Vic., cap. 36, sec. 153).

Act No. 13, 1899.

“To consolidate and amend the Law relating to the Customs and Shipping.”

[31st July, 1899.]

WHEREAS it is expedient to consolidate and amend the various Ordinances, Laws, and Acts relating to the Customs and to Shipping:—

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:—

I. Preliminary.

1. This Act may be cited as the “Customs Consolidation and Shipping Act, 1899.” Short title.
2. This Act shall come into force on the first day of August, 1899. Commencement
3. The Ordinance, Laws, and Acts enumerated in Schedule A of this Act shall be repealed to the extent shown in the third column of the said Schedule, 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 liability incurred thereunder. Repeal.
4. For the purpose of this Act— Interpretation.
 - “Collector” shall mean the Collector of Customs.
 - “Master” shall mean the person having or taking charge or command of any ship.
 - “Ship” shall mean ship or vessel of any description.
 - “Shed” shall mean any covered and secured place in which goods may be temporarily deposited.
 - “Queen's Warehouse” shall mean any place provided by the Government for lodging goods therein for security of the Customs duties.
 - “Minister” shall mean the Minister having charge of the Department of Customs.
 - “Goods” shall mean any article whatever, including animals, and shall, where not directly specified to the contrary, include stores or baggage, or, in the case of shipment, bunker coal.
 - “Importation” or “Importing” shall include and mean the bringing of goods into or within the limits of the Colony.
 - “Importer” shall mean the person who actually imports the goods, and shall also include any person who acts on behalf of the importer.
 - “Exporter” shall mean the person who actually exports the goods, but shall also include any person who acts on behalf of the exporter.

Act 13, 1899. "Transire" shall mean the account of coasting cargo and coasting ship's clearance

II. Officers of Customs.

Who are deemed to be officers. 5. Every person employed on any service relating to the Customs within the Colony of Natal, by order or with the concurrence of the Governor or the Collector of Customs (whether previously or subsequently expressed), shall be deemed to be the officer for that service.

Security to be given. 6. Every person employed in the Customs, and not coming under the provisions of Law No. 7, 1890, shall give security to the satisfaction of the Collector of Customs for the due and faithful discharge of his duties.

Declaration to be made by officers. 7. Every person who shall be appointed to any office or employment in the Customs shall, on his admission, make the following declaration, viz. :—

"I, A. B., do declare that I will be true and faithful in the execution, to the best of my knowledge and power, of the trust or duty committed to my charge and inspection in the service of the Customs of the Colony of Natal; and that I will not require, take, or receive any fee, perquisite, gratuity, reward, benefit, or advantage, whether pecuniary or of any sort or description whatever, either directly or indirectly, for any service, act, duty, matter, or thing done or performed, or to be done or performed in the execution or discharge of any of the duties of my office or employment, on any account whatever, other than my salary, and what is or shall be allowed me by law or by any special regulation of the public service, or by special order of the Minister having charge of the Department of Customs."

Acceptance of bribes, &c., by officers. 8. Every person in the Customs Department who shall accept any fee, perquisite, gratuity, benefit, advantage, or reward, whether pecuniary or otherwise, directly or indirectly, on account of anything done or omitted to be done by him in or in any way relating to his office duty or employment, except such as he shall receive as salary, or as allowed by law or by any regulation of the public service, or under permission of the Minister, shall, on proof thereof to the satisfaction of the Collector of Customs and of the Minister, be dismissed from his office, subject, in the case of officers of the permanent Civil Service, to the provisions of the Civil Service Act, 1894.

Bribery of officers. 9. Every person who shall give, offer, or promise to give any such fee, perquisite, gratuity, benefit, advantage, or reward as aforesaid, shall for every such offence be liable to a penalty of Two Hundred Pounds.

Continuation of existing appointments and securities. 10. All commissions, deputations, and appointments granted to any officers of the Customs prior to the commencement of this Act, shall continue in force as if the same had been granted under the authority of this Act; and all bonds or other securities which shall have been given by or for any such officers, and their sureties for good conduct or otherwise, shall remain in full force as if entered into under this Act.

Departmental enquiries by Collector. 11. The Collector of Customs may institute and conduct an inquiry to ascertain the truth or facts with respect to any complaint or matter relating to any business under his management or control or incident thereto, or into the conduct of any officer or person employed in the Customs department; and may require proof on oath from any person attending before him to give evidence relating to the subject of the

inquiry, and may administer such oath to such person; and if any person so examined as a witness shall give false evidence on such examination, such person shall be deemed guilty of perjury, and for that purpose the evidence of such person taken before the Collector of Customs and recorded by him or signed by such person shall be admissible in proof of the evidence given. For the purpose of requiring the attendance of any person as a witness, the Collector may procure the issue of a subpoena from the Court of a Magistrate, which shall be issued and be of the like force as if the inquiry were an action pending in such Court. Act 13, 1899.

12. Officers and employees of the Customs department shall be exempt from liability to serve as jurors. Exemption from juries.

13. The Collector may from time to time appoint the hours of attendance of officers and employees of the outdoor branches of the Customs department. Hours of attendance.

14. No day shall be kept as a public holiday by the Customs department, except those days provided for by Law, or Proclamation issued under authority of Government. Holidays.

15. Every person who shall in any way hinder, oppose, molest, or obstruct any officer of the Customs, in the exercise of his office, or any person acting in his aid or assistance, shall, for every such offence, be liable to a penalty of Two Hundred Pounds. Obstructing officers.

16. Where in this Act or any other Law or Act the words "Collector of Customs" are used, it shall be understood that any principal officer of Customs may act on his behalf. Who may act on behalf of Collector.

III. Ports of Entry and Departure.

17. Port Natal and Port Shepstone shall be and shall be deemed to have been ports of entry and departure for ships. Port Natal and Port Shepstone.

18. The Governor in Council may, by Proclamation, appoint places on the coast of Natal to be ports of entry and departure for ships, and may by regulations made in that behalf appoint conditions under which the lading or unlading of cargo and the entry and departure of vessels shall take place. Any person who shall contravene any of such regulations, or the conditions thereunder, shall be liable to a penalty of One Hundred Pounds. Appointment of ports of entry and departure.

19. This Act and all Laws relating to the Customs shall, so far as the same are applicable, extend and apply to all goods and things imported and exported across the inland border of the Colony, as fully and effectually as if such inland border were part of the high seas within one league of the coast of this Colony. Application of Laws to inland borders.

20. The Governor in Council may, from time to time by Proclamation, appoint such places on or near to the border of the Colony as may be requisite as ports of entry and departure for the importation and exportation of goods. All vehicles and all persons engaged by any means whatsoever in importing or bringing any goods or produce into the Colony overland from any place beyond the borders thereof, or exporting any goods or produce from the Colony overland, shall be bound to enter or leave the Colony at one or other of such ports of entry and departure, and to comply with any regulations which may be made respecting such importation or exportation. Ports of entry and departure for inland borders.

IV. Arrival and Departure of Ships.

21. The Master, or owner, or an officer or agent duly authorised, of every ship, whether laden or in ballast, arriving at any port or place in this Colony shall, within twenty-four hours after such arrival, make due report of such ship to the Collector or proper officer of Report of ship upon arrival.

Act 13, 1899. Customs at the nearest Custom House in such form, and containing such particulars as may be required by the regulations made by the Governor in Council in that behalf, together with such further particulars as the Collector of Customs may in due course require. Such report shall be made before bulk be broken, except where otherwise specially allowed or provided for by order of the Collector of Customs, or at ports where goods may be landed into transit sheds.

Penalties for failure to report.

22. If such report be not duly made as aforesaid, or if any of the particulars contained in such report be untrue, the Master shall be liable to a penalty of One Hundred Pounds; and all goods not duly reported may be detained by any officer of Customs until so reported, or until the omission be explained to the satisfaction of the Collector of Customs, and may in the meantime be removed to the Queen's Warehouse.

Questions by Collector.

23. The Master or owner of such ship, or the duly authorised officer or agent, shall answer all such questions concerning the ship, the cargo and stores, the crew and the voyage, and shall produce such documents relating to the cargo and voyage as shall be demanded of him by the Collector or other proper officer of Customs.

Penalties for landing goods before report.

24. If any goods which the Master is bound to report before landing be unladen from any ship before such report be made, except as permitted under any provision of this Act, or if the Master or owner, or the duly authorised Officer or Agent, do not truly answer the questions or produce the documents lawfully demanded of him, he shall be liable to a penalty of One Hundred Pounds.

Customs officers may board ships.

25. The officers of Customs may board any ship in or on arriving at or off any port in this Colony, or being within one league of the coast, and may stay on board until all goods laden in such ship for such port shall have been duly delivered from the same.

Fastening hatchways; marking, locking, sealing goods or stores.

26. The officers of Customs on board of any ship shall have free access to every part of such ship, with power to fasten down hatchways, and to mark any goods or stores before landing, and to lock up, seal, mark, or otherwise secure any goods or stores on board such ship. Such fastening down of hatchways shall not be enforced longer than may be absolutely necessary.

Forcible opening of locked places on board.

27. The officers of Customs on board of any ship wherein any place, box, or chest, shall be locked, and the keys thereof withheld, may, under any general authority given to them by the Collector of Customs, open any such place, box, or chest in the best manner in their power, and they will not be liable for any damage to the goods incurred in the opening; and if any goods liable to duty or prohibited or not duly reported be found concealed on board any such ship, or if any such goods shall not have been produced to the officers on demand, such goods shall be forfeited.

Breaking customs seals, &c.

28. If the proper officer of Customs shall place any lock, mark, or seal upon any goods or upon any stores, or upon any place or package in which the same may be on board any ship or vessel arriving in or in any port or place in this Colony, and if such lock, mark, or seal shall be wilfully opened, altered, or broken, or if any goods or stores so secured shall be secretly conveyed away either while the ship remains in the port or place at which she shall have so arrived, or shall be, or at any other port or place in this Colony to which she may proceed, or on her passage from one port to another, or if the hatchways, after having been fastened down by the officers of Customs, be opened, the Master of such ship shall be liable to a penalty not exceeding One Hundred Pounds.

Stationing officer on board.

29. The Collector or principal officer of Customs may station any officer or officers on board any vessel while within the limits of any

port within this Colony, and the Master of every such ship shall provide such officer or officers with sufficient room and accommodation under the deck for the bed or hammock of each officer so stationed on board; and if the Master of such ship shall refuse to do so, he shall be liable to a penalty of Twenty Pounds.

Act 13, 1899.

30. It shall be lawful for the officers of Customs to go on board any ship in this Colony, with the exception of ships of war or other national vessels privileged by international law and usages, and to rummage and search all parts of such ship for prohibited and uncustomed goods; and also to go on board any ship other than the ships excepted as aforesaid, hovering within one league of the coast of Natal; and, in either case, freely to stay on board such ship so long as she shall remain in such port, or within such distance; and if there be any goods or stores on board, which shall not have been produced to the said officers, or which may be prohibited to be imported into this Colony, such goods or stores shall be forfeited; and if the Master shall not truly answer the questions relating to the ship and cargo and stores which shall be demanded of him, he shall be liable to a penalty of One Hundred Pounds.

Boarding, rummaging, searching and enquiry.

31. The Collector or other principal officer of Customs may refuse to admit any person to do any act within this Colony as Master of any British ship, unless the name of such person shall be inserted in, or have been endorsed upon the certificate of registry of such ship, as being the Master thereof.

Insertion of Master's name in certificate of registry.

32. The Master of every ship bound from any port or place in the Colony of Natal to any port or place out of the Colony shall, before any goods are laden therein, deliver to the Collector, or other proper officer, an entry outwards, under his hand or that of his agent, of the destination of such ship, stating her name, country, and tonnage, and, if British, the port of registry, the name and nationality of the Master, and such other particulars as may be required by the Collector; and if any goods be laden on board any such ship before such entry be made, the Master of such ship shall be liable to a penalty of Fifty Pounds.

Entry outwards.

33. Before any such ship shall depart, the Master or his authorised agent shall bring and deliver to the Collector, or other proper Officer of Customs, a content in writing, under his hand or that of the authorised Agent, of the goods laden, and the names and addresses of the respective shippers of the goods, with the marks and numbers of the packages or parcels of the same, and shall make and subscribe a declaration to the truth of such content, as far as any such particulars can be known: Provided that it shall be competent for the Collector of Customs to allow a vessel to depart under such guarantees, as he may consider necessary, that such content will be delivered within such time as he may fix.

"Content" of goods shipped.

34. The Master or agent of every ship bound to any port or place out of the Colony, whether in ballast or laden, shall, before the departure of the ship, come before the Collector, or other proper officer, and shall deliver a list of the unconsumed stores left on board, together with a list of the stores shipped from bond, and shall answer all such questions concerning the ship and cargo and stores, if any, and the crew, passengers, and the voyage, as shall be demanded of him by such officer; and thereupon the Collector, or other proper officer, shall make out and give to the Master, or his authorised agent, a certificate of the clearance of such ship for her intended voyage, the certificate to be in such form and to contain such particulars as may be prescribed by the regulations in that behalf, and as the Collector may deem necessary; and if the ship shall depart without such clearance or if the content shall be incorrect, or if the Master or agent shall

List of stores.

Questions by officer.

Clearance outward.

Act 13, 1899. not truly answer the questions demanded of him, the Master or agent shall be liable to a penalty of One Hundred Pounds.

Boarding,
demanding
clearance, &c.

35. Any officer of Customs may go on board any ship after clearance outwards within the limits of any port in the Colony of Natal, or within one league of the coast thereof, and may demand the ship's clearance and any papers relating to the ship's cargo or stores, and if the Master shall refuse to produce the same and to answer such questions concerning the ship, cargo, and intended voyage as may be demanded of him, he shall be liable to a penalty of Twenty Pounds.

Penalty for
departure with
Customs officer
on board.

36. If any vessel shall depart from any port or place in the Colony of Natal with any officer of Customs on board and without his consent, the owner or Master shall be liable to a penalty of One Hundred Pounds.

V. Landing and Entry of Goods and Payment of Duties.

Right to import
and warehouse
goods.

37. All goods not prohibited by law may be imported and all goods liable to duty may be warehoused free of duty in duly approved warehouses, excepting those goods upon which the Governor may from time to time, by notice in the "NATAL GOVERNMENT GAZETTE," direct that duties shall be paid at the time of importation.

Prohibited
goods.

38. The goods enumerated and described in the following list of prohibitions and restrictions inwards are hereby prohibited to be imported or brought into this Colony, save as thereby excepted, and if any goods so enumerated and described shall be imported or brought into this Colony contrary to law, the person or persons importing or bringing such goods into the Colony shall be liable to a penalty of Fifty Pounds, and such goods shall be forfeited and may be destroyed or otherwise disposed of as the Collector of Customs, with the approval of the Minister, may direct.

List of Prohibitions. (A)

Indecent, blasphemous, or obscene prints, paintings, photographs, books, cards, lithographic or other engravings or other pictorial representations, or any other indecent or obscene articles.

Coins, base or counterfeit, or imitation.

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.

Explosives imported otherwise than under the conditions and restrictions imposed by the laws relating to the importation thereof.

All animals, goods or articles the importation of which may be prohibited by or in virtue of any law.

Arms and ammunition of all sorts except under the restrictions of the Laws and Acts relating to the same.

No Sunday
landing except
with permission

39. No goods, animals, baggage or stores shall be unshipped from any ship, or be landed or put on shore, on Sundays or holidays, except by special permission of the Collector or principal officer of Customs, nor shall they on other days be unshipped, landed or put on shore, except between the hours of seven o'clock in the morning and five o'clock in the afternoon, or during such other hours and under such conditions as may be permitted by the Collector or principal officer of Customs.

Business hours.

Landing to be
in presence of
officer.

40. No goods, animals, baggage or stores whatever shall be unshipped or landed at any time, except in the presence or with the

authority of the proper officer of Customs, and in the case of inflammable or dangerous goods of any sort, it shall be lawful for the Collector, or proper officer of Customs, to stop the unloading at any hour of the day, after notice has been given to the ship.

Act 13, 1899.
Inflammable goods.

41. No goods, animals, baggage or stores shall be landed, except at some wharf or other place duly appointed by the Collector of Customs for the landing or unshipping of goods nor, after having been unshipped or put into any boat or craft to be landed, shall they be transhipped or removed into any other boat or craft previously to their being landed, without the permission of the proper officer of Customs; if any goods, animals, baggage or stores shall be unshipped or removed from any importing ship for the purpose of being landed, they shall be forthwith taken to and landed at the wharf, quay, or other place at which the same are intended to be landed. If any goods, including animals, baggage, and stores, shall be unshipped, landed, transhipped, removed, or dealt with contrary to the provisions of this Act, they shall be forfeited, together with the barge, lighter, boat, or other vessel employed in removing the same: Provided, however, that should the owner of the barge, lighter, boat or other vessel satisfy the Collector that he was in no way cognizant of the offence, the said barge, lighter, boat or other vessel shall not be forfeited.

Place of landing.

Unauthorised transhipment.

Forfeiture of goods illegally landed, removed, &c., and of boats employed.

42. It shall be lawful for the Collector of Customs to specify, by notice under his hand, the places for the landing and examination of goods, animals, baggage and stores, and to make, from time to time, such regulations in connection therewith as may be necessary for facilitating the due collection of revenue. Any person infringing such Regulations shall be liable to a penalty of Twenty Pounds, in addition to any forfeiture which may be incurred.

Appointment of landing places, collection of revenue.

43. If any goods cognizable under this Act, or any Act relating to the Customs, shall be removed or attempted to be removed from any shed or wharf, or from any approved place of deposit without the permission of the proper officer of Customs having first been obtained, such goods shall be forfeited.

Unauthorised removal from shed or wharf.

44. No goods shall be unladen from any ship at any port or place in the Colony of Natal (unless specially allowed or provided for by order of the Collector of Customs or unless landed into transit sheds) until due entry thereof shall have been made in such form and with such particulars and arrangement of particulars as shall be prescribed by regulations made in that behalf, and until warrant shall have been granted for the unloading of the same, and all goods unladen contrary to the provisions of this section or to any regulations made in that behalf shall be forfeited.

Entry, and warrant for lading.

45. The Collector of Customs may from time to time appoint suitable sheds or warehouses as transit sheds, into which goods may, before entry or report, be removed from the ship.

Transit sheds.

46. For the purposes of this Act, goods placed in a transit shed shall be deemed to be still in the ship, and so long as they shall remain in the transit shed the owners and agents of the ship shall not be relieved from any responsibility, liability, or risk in respect thereof, but shall remain responsible and liable therefor in all respects as if the goods had not been removed from the ship and were still therein.

Responsibility for goods in transit sheds.

47. The Government shall not be in any way responsible or liable in respect of goods placed in a transit shed, notwithstanding that such transit shed has been approved by the Collector of Customs, or that it may be the property or under the control of the Government.

Government not responsible.

48. No goods shall be taken from a ship to a transit shed except upon compliance with the regulations made in that behalf.

Taking goods to transit sheds.

Act 13, 1869.

Landing goods by permission before entry.

49. It shall be lawful for the Collector or principal officer of Customs, upon the application of the Master or Agent of any ship arriving at any port or approved place in this Colony, for the purpose of facilitating the despatch of such ship, to grant permission for any goods or stores to be landed from such ship before the importer's entries thereof shall have been passed, and under such conditions and regulations as the Collector of Customs may deem fit, for the immediate removal of such goods or stores to some suitable building to be approved by the said Collector or principal officer of Customs as a temporary warehouse for the reception thereof.

Money, weights, &c., to be used for Customs business.

50. All sums of money payable by law to the Collector of Customs as duties, penalties, or forfeitures shall be in sterling money of Great Britain, and all weights and measures used in the service of the Customs shall be the Imperial weights and measures by law established; and in all cases where such duties are imposed according to specified quantity or value, the same shall be deemed to apply in the same proportion to any greater or less quantity.

Monies collected to go to general revenue.

51. All moneys collected as duties of Customs, or as forfeitures under Customs Acts, or as wharfage, tug, or light dues, within this Colony shall be paid to the general revenue of the Colony.

Duplicate entries.

52. Upon the entry of any goods, the importer, his agent, or the owner or Master of the ship, as the case may be, shall deliver one or more duplicates of the entry thereof, as the Collector of Customs may require, in which duplicates all sums and numbers may be expressed in figures, and the importer or his agent shall produce to the Collector or proper officer of Customs the true invoice, and, if required, the bills of lading and other documents relating to the goods; and the proper officer of Customs may detain all goods until the provisions of this section have been carried out; and should it be proved that any false invoice or document has been produced, the goods affected shall be forfeited in addition to the penalty incurred under this Act for any false declaration.

Collector may call for invoice and other documents.

53. It shall be competent for the Collector of Customs or officer acting on his behalf to require the production to him of the invoice or any document relative to the goods at any time within six months after the date of importation although such invoice or document has already been produced to an officer of Customs. Should the importer or agent or other person concerned, without lawful excuse, fail to comply with such request, he shall be liable to a penalty not exceeding Twenty Pounds.

Payment of duties.

54. All duties and charges, except where otherwise provided for, shall be paid to the Collector or proper officer of Customs at the time the entry for the goods is made; and the entry when signed by the Collector or proper officer of Customs shall be the warrant for the landing and, after satisfactory examination, delivery of the goods.

Warrant for landing and delivery.

Entry by bill of sight.

55. If the importer of any goods shall make and subscribe a declaration before the Collector, or other proper officer of Customs, that he cannot for want of full information make perfect entry thereof, it shall be lawful for the Collector, or other proper officer, to receive an entry, by bill of sight, for the packages or parcels of such goods, by the best description which can be given, and to grant a warrant thereupon, in order that the same may be landed and secured to the satisfaction of the Collector or other proper officer of Customs, and may be seen and examined by such importer, in the presence of such proper officers; and within three days after the goods have been so landed, or within such extended time as the Collector of Customs may permit, the importer shall make a perfect entry thereof, and pay down all duties due thereon, and in default of such entry, such goods shall be taken to the Queen's Warehouse; and if the importer shall

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not, within one month after such landing, or within such extension of time as may seem reasonable to the Collector of Customs, make perfect entry of such goods, and pay the duties due thereon, together with charges of removal and warehouse rent, such goods shall be sold for the payment thereof, and the overplus, if any, shall be paid to the proprietor of the goods.

Form and requirements of bill of sight.

56. The bill of sight for the purposes of the preceding section shall be in such form as shall be prescribed by the regulations in that behalf; and a non-compliance with any requirement therein stated will render the offender liable to a fine or penalty of Twenty Pounds.

Declaration by importer.

57. The following declaration shall be made at the foot of every entry, that is to say:—

I, declare, to the best of my knowledge and belief, the above particulars to be true, and that the invoice produced in support of the above value is the true one, and that each package contains no other goods than those mentioned above,

Value for ascertaining duty.

which declaration shall be subscribed with the hand of the importer, or of his known agent, and in the case of goods charged with duty according to the current value thereof, the value so declared, after having been proved by the production of the true invoice, shall be the value whereon duty shall be levied.

Collector may require declaration on oath and evidence of value.

58. If upon view and examination of any articles by the proper officer of Customs, it shall appear to him that such articles are not valued according to the current value thereof at the place where the same were purchased, then and in such case the Collector or other proper officer may, if he deem it fitting so to do, require the importer or his agent to declare on oath before him to the truth of the aforesaid declaration according to the best of the belief of such importer or his agent, and to adduce any documentary evidence he may possess in support thereof.

Examination and valuation of goods.

59. If it shall appear to the Collector or other proper officer, whether such oath as aforesaid shall have been required or not, that any articles have been declared at a value below the current value thereof at the place where the same were purchased, the articles shall in such case be examined by two competent persons, one to be nominated and appointed by the Collector or other principal officer of Customs and the other by the importer, and such two persons shall before entering into the enquiry appoint an umpire, and shall then declare on oath before the Collector or proper officer of Customs what is the current value of such articles at the place where the same were purchased, and in case such persons shall not agree, then the declaration of such value on oath as aforesaid of the umpire shall be final.

Procedure where importer fails to appoint examiner, &c.

60. If any importer shall fail within seven days from his being required so to do by the proper officer of Customs to make an appointment as hereinbefore provided, or if no declaration shall be made by the persons appointed, or by the umpire selected by them, within seven days from their appointment or selection, then in any such case the declaration of the person to be appointed as aforesaid by the Collector or principal officer of Customs shall be final, and the duties shall be charged and paid upon the value as ascertained and declared in conformity therewith.

Penalty duties or forfeiture in cases where value exceed the declared value.

61. Should the value ascertained as aforesaid and declared under any of the provisions hereinbefore contained for arbitration, exceed by 15 per cent., and not by 30 per cent., the value originally declared by the importer or his agent there shall be payable on such goods double the amount of duty otherwise chargeable thereon; and should the value so ascertained and declared as aforesaid exceed by 30 per

Act 13, 1899. cent., and not by 60 per cent., the value originally declared by the importer or his agent, then there shall be payable on such goods four times the amount of duty otherwise chargeable thereon; and should the value so ascertained and declared as aforesaid exceed by 60 per cent. or upwards the value originally declared by the importer or his agent, then such goods shall be forfeited: Provided that this section shall not affect the forfeiture of goods for which a false invoice has been produced, and shall not affect the punishment for any false declaration made in connection with such false invoice.

Meaning of "current value."

62. For the purposes of this Act and of the declaration and oaths thereby required to be made, the term "current value" shall be taken to be (the true current value in the open market for such goods at the place of purchase by the importer or his agent,) including the cost of packing and packages but not including Agent's commission if it does not exceed 5 per cent.: Provided that in no case shall the true current value as above defined be less than the cost of the goods to the importer at the place of purchase.

Time allowed for entry and landing.

63. Every importer of any goods shall, within seven days after the arrival of the importing ship, or within such extended time as the Collector of Customs may permit, make due entry inwards of such goods and land the same; and when goods have been landed into transit sheds, the entries inwards must be made within one day from the date of landing, or within such time as the Wharfmaster may permit the goods to remain in the shed.

Charges to be paid by ship in case of delay.

64. In default of such entry, and landing, within such time as aforesaid, there may, in any case where the goods have not been landed from the ship, be charged to the owner or agent of the ship the sum of Ten Shillings per diem for each Custom House officer employed by the Collector to watch the ship; and, for goods placed in transit sheds, there shall be charged after two days from the deposit in the shed such an amount of rent as the Wharfmaster may be directed to levy under authority of Government.

Removal of goods to Queen's Warehouse.

65. In default of entry and landing or clearing of goods within seven days from the reporting of the ship at the Customs House, it shall be lawful for the officers of the Customs to convey such goods to the Queen's Warehouse or to some place of security, which shall, for all purposes relating to such goods, be deemed and taken to be the Queen's Warehouse; and if the goods be not duly cleared, by payment of duty or otherwise in accordance with the provisions of this Act, within six months after such seven days shall have expired, together with all charges of removal and warehouse rent, the same shall be sold, and the produce thereof shall be applied, first to the payment of removal charges to the warehouse, then to the payment of duties, auction and rent charges, then to the payment of freight, and the overplus, if any, shall then be paid to the proprietor of the goods, or any other person authorised to receive the same: Provided always that perishable goods may be sold within such time and under such notice to the consignee, if known, as the Collector of Customs may deem sufficient.

Time allowed for payment of duty.

Sale in case of default.

Free goods: conditions of importation.

66. The importation by sea or by land, into the Colony of Natal, of all goods which may, under this Act or any Act relating to the Customs be free of duty, shall be subject to any regulations as to landing, removal or examination, made by the Collector of Customs, with the approval of the Minister, with respect to such goods.

Inspection and search.

67. Upon the landing or entry of any goods, or at any time thereafter, any proper officer of Customs may require the importer or his agent to open and unpack the same, and may inspect, search and examine all such goods.

68. Whenever and so soon as any member of the Executive Council, acting for and on behalf of the Governor, shall in the Legislative Assembly give notice of a resolution whereby it shall be proposed to affirm the expediency of increasing the rate of Customs duty payable upon the importation of any goods, merchandise, or things, it shall be lawful for the Officers of the Customs Department, acting under instructions to that effect from the Governor in Council, to refuse to permit any of the goods, merchandise, or things mentioned in such resolution to be entered for consumption unless and until the person proposing to pay duty upon the same shall, together with a surety to be approved by the principal officer of Customs at the port or place of entry, enter into a bond conditioned for the payment of such increased duty as Parliament may afterwards authorise and impose, or shall deposit the amount of such increased duty: Provided that in lieu of a bond on each occasion of entry an Importer may enter into a general bond, with two sufficient sureties to be approved by the Collector or proper officer of Customs, in such a penalty as may be deemed sufficient by the Collector or other proper officer of Customs.

Act 13, 1899.
Provisional increase of duty upon notice being given in Legislative Assembly.

69. In case Parliament shall, by any Act thereof passed during the same session, direct and appoint that the rate of Customs duty previously payable upon any article or articles mentioned in any such resolution shall be increased, it shall be lawful for the Collector of Customs to call upon the person who entered or delivered for consumption the said article or articles to pay the difference between the duty paid by him and the increased duty payable under the said Act; and in case he shall refuse and neglect so to do, the said bond shall, by the Collector of Customs, be put in suit for the recovery of such difference, or, in case a deposit of the proposed increased duty shall have been made, the deposit shall, to the extent of the increased duty payable under the Act, be paid to the General Revenue as Customs duty.

Payment or recovery of increased duty upon passing of an Act.

70. In the event of any increase, decrease, or repeal of Customs duty chargeable upon any article after the making of any contract or agreement for the sale or delivery of such article duty paid, it shall be lawful for the seller, in case such increase shall accrue before the clearance or delivery of such article at such increased duty, and after payment thereof, to add so much money to the contract price as will be equivalent to such increase of duty, and he shall be entitled to be paid and to sue for and recover the same; and it shall be lawful for the purchaser under any such contract or agreement, in case such decrease or repeal shall take effect before the clearance or delivery at such decreased duty, or free of duty, as the case may be, to deduct so much money from the contract price as will be equivalent to such decrease of duty or repeal duty, and he shall not be liable to pay or be sued for or in respect of such deduction.

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

71. If in any case the Governor shall, instead of causing such a resolution as aforesaid to be offered to the Legislative Assembly, send down to the Legislative Assembly a Bill having for its object an increase of the Customs duty payable upon any article or articles enumerated in the Bill, then, when and as soon as such Bill shall have been introduced, the same effects and consequences shall follow as those in the preceding sections mentioned in regard to the giving of notice of the resolutions therein described.

Introduction of Bill for increased duties to have same effect as notice of resolution.

72. The right of requiring such bonds or deposits as aforesaid to be entered into or made shall in no case endure longer than till the end of the session of Parliament in which any such resolution or any such Bill as aforesaid shall have been brought under the consideration of Parliament; and such right may, by order of the Governor in Council, be terminated sooner, in case it shall appear

Determination of right to demand bonds or deposits for increased duties.

Act 13, 1899. that Parliament declines to sanction the proposed increase of Customs duty.

Refusal to pay duties: sale of goods for the duty.

73. If the importer of any articles shall refuse to pay the duties due thereon, it shall be lawful for the Collector, or proper officer of Customs, to take and secure the same, with the casks and other packages thereof, and to cause the same to be publicly sold, at such time and place as such officer shall, by ten or more days' notice in the "NATAL GOVERNMENT GAZETTE," and in one or more local newspapers, appoint for that purpose; or in the case of perishable articles, at such time and place as he shall notify to the importer; which articles shall be sold to the highest bidder; and the money arising from the sale thereof shall be applied, in the first place, in payment of the said duties, together with the auction dues and other charges occasioned by the said sale, and the overplus, if any, shall be paid to such importer or proprietor, or any other person authorised to receive the same.

Duty payable on goods of the Crown, when sold.

74. All goods, wares, and merchandise, the property of the Crown, shall, in case of sale thereof, be liable to, and be charged with, the same duties as may be payable on such goods, wares, or merchandise not being the property of the Crown.

Remission of duty upon destruction of goods.

75. If any goods be destroyed by unavoidable accident or by fire, either on shipboard, or in landing, or in lading, or in removing under bond, or in receiving into a bonding warehouse, or in the bonding warehouse, or on delivery therefrom, the Collector or principal officer of Customs may, on satisfactory proof thereof, and that every effort was made to prevent the destruction, remit the duties due, or return the duties paid, on the said goods: Always provided that the goods at the time of the accident or fire, had not been removed away from Customs supervision or were being removed under bond to the Crown.

Prescription of action for duty wrongly paid.

76. No repayments of Customs Duties, Wharfage, Tug, or Light Dues unduly paid, or paid in excess of the correct amount, shall be claimable unless demand be made therefor within twelve months from the date of payment to the Customs.

Refund of duties on goods purchased for H.M. Forces.

77. It shall be lawful for the Government, subject to such conditions as may be prescribed by regulations under this Act, to refund the duties, tug and wharfage dues paid upon such goods, wares, provisions, stores, or merchandise as may be purchased in the Colony by and for use of Her Majesty's land or sea forces.

Refund of duties on wines and spirits for Governor or officers of H.M. Forces.

78. The Collector of Customs shall be empowered, subject to such conditions as may be imposed by regulations under this Act, to refund the duties and tug dues paid upon such wines and spirits as may be purchased by and for the use of His Excellency the Governor, or by and for the use of the officers of Her Majesty's land and sea forces serving on full pay in this Colony.

Refund of duty on guns imported and taken away by officers.

79. Any officer in Her Majesty's Service, serving on full pay in this Colony, who has imported, or who may hereafter import or bring into this Colony, for his own use, any sporting gun or guns, and who may on his departure from this Colony take away any such sporting gun or guns so imported or brought into this Colony, shall, on application to and on compliance with any necessary regulations laid down by the Collector of Customs, be entitled to receive, on his departure from this Colony, the amount of Customs duty paid by him in respect of such sporting gun or guns so imported by him.

VI. Warehousing and Export from Bond.

Free warehousing stations.

80. The Governor in Council may from time to time constitute and appoint such places in the Colony of Natal as may be deemed expedient to be free warehousing stations for the purposes of this Act.

81. At any warehouse provided by the Government, at a warehousing station, there shall be charged such rents on goods deposited as may be prescribed by the Minister by regulations in that behalf.

Act 13, 1899.

Rent in Government warehouses.

82. It shall be lawful for the Collector of Customs for the Colony of Natal, with the approval of the Minister, by notice in writing, under his hand, to appoint from time to time such warehouses, at any duly appointed station, as shall be approved of by him for the free warehousing and securing of goods therein according to law; and may also by such notice declare what sort of goods may be so warehoused, and may also, with the approval of the Minister, by a like notice revoke or alter any such appointment or declaration, and upon any such revocation the goods are to be cleared or removed from the warehouse within such a time as may be fixed, not being less than three months. Every such notice shall be published in the "NATAL GOVERNMENT GAZETTE."

Appointment of warehouses.

What goods may be warehoused.

83. A warehouse approved under the provisions of the preceding section shall not be used for the purposes specified in that section, until the owner or lessee of the premises has entered into a bond, with two sufficient sureties, to the satisfaction of the Collector or principal officer of Customs, for the payment of the full duties of importation on all such goods as shall at any time be warehoused therein, or for the due exportation or shipment thereof as stores.

Warehouse bond.

84. The owner or lessee of any premises licensed as a warehouse before the date of the commencement of this Act shall forthwith enter into a bond as described in the foregoing section: Provided that any such bond which may have been entered into before the commencement of this Act shall be deemed to have been executed in compliance with this Act. If he shall fail to give such bond within two months after the commencement of this Act, the Collector of Customs may issue a notice of revocation as hereinbefore provided.

Bond to be given forthwith.

Existing bonds.

85. It shall be lawful for the importer of any goods, which may be allowed to be warehoused, to deposit the same in the warehouses so appointed, without payment of any duty on the first entry thereof; save and except such amount of duty as may accrue by the loss or diminution of such goods in the transport thereof from the port of entry or landing place to the warehouse in which they are to be deposited; and all goods so warehoused, or entered to be warehoused, shall be subject to the regulations made by the Governor in Council in that behalf, and also to such special regulations as the Collector of Customs may make for the due protection of the Customs revenue on goods warehoused or entered to be warehoused under this Act or any Act relating to the Customs.

Warehousing without payment of duty.

Warehousing regulations.

86. Upon the entry of any goods to be warehoused, the importer of such goods, instead of paying down the duties due thereon, shall give bond, with one sufficient surety, to be approved by the Collector, in treble the duties payable on such goods, with condition for the safe depositing of such goods in the warehouse mentioned in such entry within such time and under such conditions as may be approved by the Collector of Customs, and for the payment of all duties due upon such goods, or for the exportation or shipment thereof as stores, according to the first account of those goods upon the landing of the same; and with the further condition that no part of such goods shall be taken out of such warehouse until cleared from thence upon due entry and payment of duty, or upon due entry for exportation or shipment as stores, or, in the case of goods damaged or deteriorated to such an extent as not to be worth the duty, upon delivery for the purpose of destruction under such conditions as the Collector of Customs may impose: Provided that in the case of an Importer who keeps a licensed warehouse for which a general bond has been given as herein-

Bond by importer for duty on warehoused goods.

Act 13, 1899. before provided, it shall not be necessary for him to give a special bond under this section in respect of any goods deposited in such warehouse: Provided, also, that where the duty involved does not exceed Ten Pounds Sterling it shall not be necessary to obtain a surety to the bond.

Account to be taken of goods warehoused. 87. Upon the importation of any goods to be warehoused, the proper officer of Customs shall take a particular account of the same, and shall enter the same in a book to be kept for that purpose.

Delivery from warehouse: payment of duty. 88. No goods which have been so warehoused shall be taken or delivered from the warehouse except upon due entry and into and under the care of the proper officers for exportation or shipment as stores, or upon due entry for home use and payment of duty, at the time of tendering the entry, on the account taken at the importation, except as to the goods enumerated in the next succeeding section.

Quantities on which duty payable upon delivery from warehouse. 89. The duties upon ale, beer, spirits and wine in the wood, unrefined sugar, and tobacco (not being cigars or snuff), when cleared from the warehouse for home use, shall be charged according to the tariff of duties in force for the time being upon the quantity of such goods, at the time of actual delivery thereof, unless there is reasonable ground to suppose that any portion of the deficiency from the account at importation has been caused by illegal or improper means, in which

Wastage allowance: beer, spirits, wine. case the proper officer of Customs shall make such allowance only for loss as he may consider justly to have arisen from natural evaporation, or other legitimate cause; in no instance shall the allowances exceed, in the case of ale, beer, spirits and wine, those which may, from time to time, be specified in a scale to be laid down by the regulations made in that behalf. No duty shall be charged in respect of any deficiency, within the scale so laid down, or on goods entered and cleared from the warehouse for exportation or shipment as stores, unless the officers of Customs have reasonable ground to suppose that the deficiency, or any part thereof, has arisen by illegal abstraction.

Ship's stores and exports.

Taking stock: duty on deficiencies. 90. Whenever the Collector of Customs shall see fit, stock may be taken and duty shall be forthwith paid upon any deficiency in the same manner as is hereinbefore provided in respect of deficiencies at the time of delivery.

Saving of penalty or prosecution. 91. Nothing contained in the foregoing sections with respect to the payment of duties upon the deficiency of goods shall prevent or prejudice any penalty or prosecution to which any person may otherwise be liable.

Stowage and marking of warehoused goods. 92. All goods warehoused in a duly approved warehouse shall be stowed in such parts or divisions of the warehouse and in such manner, and with such marks upon them, as the Collector of Customs shall direct, and if the owner of the warehouse or the proprietor of the goods or his agent shall refuse or neglect to so stow such goods he shall be liable to a penalty of Five Pounds for each offence.

Forfeiture for improper dealings with goods warehoused or entered for warehousing. 93. If any goods which have been entered to be warehoused shall not be duly carried into and deposited in the warehouse under the rules in that behalf, or shall afterwards be taken out of the warehouse without due entry and clearance, or, having been entered and cleared for exportation or shipment as stores or removal in transit from the warehouse, shall not be duly carried and shipped, or shall afterwards be re-landed except with the permission of the proper Officer of Customs, such goods shall be forfeited.

Liability for duty under general bond. 94. If any goods shall be taken out of any bonding warehouse without due entry of the same, the person who has given the general bond for the warehouse shall forthwith pay the duties due thereon; and every person so taking out goods without payment of duty, or who shall assist or be concerned in so doing, and every person who shall wilfully destroy, embezzle or pilfer any goods duly warehoused

Offences of removal without paying duty, &c.

or entered to be warehoused, or while being conveyed in boats, carriages, or other conveyances to the warehouse mentioned in the entry, or while being conveyed in any conveyance or being carried to any ship for the purpose of shipment, or to any place on the borders of the Colony for export to places outside the Colony, shall be guilty of an offence, and upon conviction shall be liable to punishment according to the ordinary criminal jurisdiction of a Magistrate's Court. Act 13, 1899.

95. Where any goods liable to a duty of Customs have been taken from a warehouse with or without the permission of an officer of Customs, as unfit for consumption, by reason of the mixture therewith of any other matter, any person who separates the goods from such other matter, unless with the permission of the Collector and upon payment of the duties, shall forfeit, at the election of the Collector of Customs, treble the duty-paid value of the goods or the sum of One Hundred Pounds, and the goods shall be forfeited. Offences in relation to goods removed as unfit for consumption.

96. The Collector may, under such regulations as he shall prescribe, permit the proprietor or other person having control over goods in a bonding warehouse, to sort, separate, pack, rack, and repack any such goods, and to make such lawful alterations therein or arrangements and assortments thereof as may be necessary for the preservation of such goods, or in order to the sale, shipment, or legal disposal of the same; and also to permit any parts of such goods so separated to be destroyed if not worth the duty. Sorting, packing, &c., in warehouse.

97. On the clearance of any goods from a duly-appointed warehouse, the proprietor of the goods or his agent shall deliver to the officer appointed for the purpose a bill of the entry thereof in such form and containing such particulars and in such an arrangement as may be directed by the regulations in that behalf, and shall also deliver at the same time one or more duplicates of the bill. Bills of entry on clearance from warehouse.

98. Warehoused goods may be removed from one warehouse to another warehouse within the Colony of Natal under such conditions as to security and otherwise as may be directed by the regulations in that behalf. Removal from one warehouse to another.

99. Warehoused goods delivered from a warehouse for exportation or for shipment as stores must be carried to be shipped under such regulations as may be made in that behalf. Delivery for shipment as stores.

100. Upon the entry outwards of any goods to be exported from a warehouse, the person entering the same shall give security by bond in treble the amount of duty to which the goods are liable, or if such goods are prohibited to be imported for home use, in double the value of the goods, with one sufficient surety, to be approved by the Collector, that the same shall be duly shipped, and shall be landed at the place for which they be entered outwards, or shall be otherwise accounted for to the satisfaction of the Collector: Provided, that where the duty involved does not exceed Ten Pounds Sterling it shall not be necessary to obtain a surety to the bond. Bond for export from warehouse.

101. Notwithstanding the provisions of the foregoing section, it shall be lawful for an exporter to enter into a general bond with two sufficient sureties, to be approved by the Collector, for the due shipment and landing at the respective places of destination of all goods which may from time to time be exported by the said exporter, but there shall be attached to each export entry covered by such bond such stamps as are by law appropriate to the penalty of the bond which would otherwise have had to be entered into for the due exportation of the goods specified in the entry. General bond for export from warehouse.

102. Upon the entry outwards of any goods to be shipped as stores from a warehouse, the Master or owner or agent of the ship shall, together with the shipper of the stores or his agent as surety, give security by bond in treble the amount of duty to which the goods are Bond for ship's stores.

Act 13, 1899.
Quantity to be
allowed to be
shipped.

Forfeiture for
re-landing.

Deficiency in
ship's stores

Queen's Ware-
house rent.

Rate or amount
of rent.

Sale of goods to
clear Queen's
Warehouse.

Days, times,
places, regula-
tions for ship-
ment.

liable that the same shall be duly shipped, used on board as stores, and shall not be relanded at any port or place in the Colony of Natal without permission and in the presence of the proper officer of Customs, and such shipment as stores shall be limited to such quantities as the Collector of Customs shall deem sufficient. If any such stores shall be relanded in any place in the Colony without the sanction and not in the presence of the proper officer of Customs, the same shall be forfeited and the Master shall forfeit treble the duty-paid value of such stores or the sum of One Hundred Pounds, at the election of the Collector of Customs.

103. If upon the return to this Colony, whether through stress of weather, want of repair, or other cause, of any ship which has cleared from any port of this Colony with stores on board any deficiency in such stores be discovered which, in the opinion of the Collector of Customs, shall be deemed to be in excess of the quantity which might fairly have been consumed, having regard to the length of time between such departure and return, the Master shall be liable to, besides the duties on such excess at the rate chargeable on the importation of goods, the subject of such excess, a penalty not exceeding Twenty Pounds.

104. Whenever any goods shall be taken to, and secured in, any of the Queen's warehouses in the Colony of Natal for security of the duties thereon, or to prevent the same coming into home use, it shall be lawful for the Collector or other principal officer of Customs to charge, demand, and receive warehouse rent for such goods for all such time as the same shall remain in the warehouse.

105. It shall be lawful for the Collector of Customs, with the sanction of the Minister, to fix the rates or amount of rent which shall be payable for any goods secured in any of the Queen's warehouses aforesaid.

106. It shall be lawful for the Collector of Customs, in order that the Queen's warehouses may not become overcrowded with packages or goods, to offer for sale and to sell by public auction to the highest bidder such packages or goods as have been in the said warehouses upwards of six months, upon giving not less than two weeks' notice to the importer thereof where known: Provided that all sales under this section shall not take place until the same shall have been advertised in at least two issues of the "NATAL GOVERNMENT GAZETTE" and one or more local newspapers: Provided always that perishable goods may be sold at any time without notice or advertisement.

VII.—*Exportation, Transhipment, Transit.*

107. No goods shall be shipped, put off, or waterborne to be shipped for exportation or as stores from any port or place in the Colony of Natal on Sundays or public holidays, except by special permission of the Collector of Customs, nor, except with the permission of, and under such regulations as may be made by the Collector of Customs, on any day from any place not being a wharf or other place duly appointed for such purpose, nor, in the case of goods or stores from a bonded warehouse, otherwise than in the presence and with the authority of the proper Officer of Customs, nor before due entry outwards of such ship, and in the case of goods or stores from a bonded warehouse, due entry thereof for shipment; all shipments on any day other than Sundays or public holidays must take place between the hours of 7 a.m. and 5 p.m., unless special permission of the Collector of Customs has been obtained; and any goods shipped, put off or waterborne to be shipped contrary to the provisions of this section shall be forfeited.

108. It shall be lawful for the officers of Customs to examine all goods shipped or brought for shipment, and the opening for that purpose of packages containing such goods, and the weighing, repacking, landing (when necessary) and the shipping thereof shall be done by or at the expense and risk of the exporter.

Act 13, 1899.
Examination of goods for shipment.

109. The exporter of goods, for which no bond is required, shall, prior to shipment, or within such period after the final clearance outwards of the exporting ship as the Collector of Customs may direct, either by himself or his agent, deliver to the proper officer of Customs at the port of shipment an entry of the goods containing such particulars, and in such arrangement as shall be prescribed by the regulations in that behalf, and shall subscribe the declaration of truth at the foot of such entry, and on the demand of the proper Officer of Customs shall produce the invoice, or a declared copy thereof, together with the bills of lading or any other documents relating to the goods to test the accuracy of such entry. On failure to comply with any of the foregoing requirements, the exporter or his agent shall for every such offence be liable to a penalty of Five Pounds, and in case any of the particulars contained in such entry shall be incorrect or inaccurate, the person subscribing the declaration shall forfeit the like penalty.

Entry outwards.

110. The exporter of free or duty paid goods to the adjoining States and Territories shall deliver to the Collector of Customs an entry of the goods in such form, and containing such particulars and in such arrangement as may be prescribed, and on the demand of the proper Officer of Customs shall produce the invoice, or a declared copy thereof, and any other documents relating to the goods, to test the accuracy of such entry. If the exporter or his agent shall fail to comply with any of the foregoing requirements, or if any of the particulars contained in any such entry be incorrect or inaccurate, he shall for every such offence forfeit the sum of Five Pounds.

Entry for export inland.

111. Goods imported for transhipment to other ships for exportation or conveyance to a port not within the Colony of Natal must be duly reported and entered with such particulars and in such form and manner as the Collector of Customs may direct, and the importer shall give security, to the satisfaction of the Collector of Customs, that the goods shall be duly exported to and landed at the place or places of destination specified, within such time and under such regulations as the Collector of Customs may consider necessary. Should any of such regulations be infringed, or should the goods not be duly reported, and entered if to be unladen, the goods shall be forfeited.

Transshipment.

112. The Governor in Council may by proclamation from time to time prescribe such rates of Customs duties as may be deemed expedient, being also within the rates for the time being imposed upon goods imported for consumption within the Colony of Natal, to be paid upon any goods and things imported for transit to and consumption within any adjoining Colony, State, or Territory: Provided that this section shall not apply in respect of any Colony, State, or Territory being a party to any lawful convention or agreement by which the rates of duty on goods imported for consumption therein are specially fixed.

Transit dues of goods for consumption in inland countries.

113. It shall be lawful for the proprietor of any imported goods, or his agent, to enter such goods as in transit to any of the adjoining States or Territories, and the removal shall take place under such conditions and by such ways as may from time to time be prescribed by the regulations in that behalf.

Entry and removal of goods in transit

114. Such goods may, if the Importer so desire, be first warehoused on the necessary entry and subsequently entered and removed under the prescribed conditions: Provided that the remover shall on each occasion of removal enter into a bond, with one sufficient surety approved

Warehousing of transit goods.

Bond.

Act 13, 1899. by the Collector, in the penalty of twice the duty on the goods, for the due observance and carrying out of such conditions: Provided, also, that where the duty involved does not exceed Ten Pounds Sterling it shall not be necessary to obtain a surety to the bond.

General bond for transit goods.

115. Notwithstanding the provisions of the foregoing section, it shall be competent for the person removing goods in transit as aforesaid to enter into a general bond, with two sufficient sureties to be approved by the Collector, for the due observance and carrying out of the prescribed conditions in the case of all goods which may from time to time be removed in transit by him.

Penalty for infringing regulations.

116. If the proprietor of the goods or his agent shall infringe any of the conditions prescribed by the regulations relating to the removal of goods in transit, he shall be liable to a penalty of One Hundred Pounds in addition to the penalty of the bond, and the goods shall be forfeited.

VIII. Coasting Trade.

"Coasting trade."

117. Trade by sea from one port to any other port of the Colony shall be deemed to be a coasting trade.

Conditions of coasting trade.

118. No goods shall be carried in any coasting ship except such as shall be laden to be carried coastwise at some port or place in the Colony duly authorised by the Governor; and if any goods shall be taken into or put out of any coasting ship at sea, or if any coasting ship shall touch at any place out of the Colony, or deviate from her voyage unless forced by unavoidable circumstances, or if the Master of any coasting ship which shall have touched at any place out of the Colony shall not declare the same in writing under his hand to the Collector or principal officer of Customs at the port in the Colony where such ship shall afterwards first arrive, the Master of such ship shall be liable to a penalty of One Hundred Pounds.

Conveyance, by special permission, of coasting cargo and other cargo.

119. Notwithstanding the provisions of the foregoing section, a ship may, with the special permission of the Collector or principal officer of Customs, and under such regulations as he may deem sufficient for the protection of the revenue, convey coasting cargo to any port or place in the Colony, and also cargo to or from any port or place out of the Colony. Any person contravening such regulations shall be liable to a penalty of One Hundred Pounds.

Transire for coasting cargo.

120. No vessel shall depart with a coasting trade cargo until the Master shall have declared before the Collector or other proper officer of Customs on a transire in duplicate, in such form and containing such particulars of the cargo as may be approved by the Collector, and such transire when signed by the Collector or other proper officer of Customs shall be the clearance of the vessel: Provided that the owner or Master may be granted a general transire under such conditions as the Collector of Customs may deem necessary, such general transire to be in force for twelve months. On each occasion of clearance under a general transire there shall be handed in to the Collector a notice of lading, and such notice shall, for the purpose of the stamp duties, be deemed a clearance of the ship.

General transire.

Cargo book.

121. The Master of every coasting ship shall keep a cargo book containing an account, including marks, of all goods on board, with the consignees' names, and the time of arrival at, and departure from, any port or place shall be inserted therein. Such cargo book shall be produced on demand to any officer of Customs, who may make any mark therein. If the Master shall fail to enter, or to have entered the particulars of any package, or if the book be not correctly kept or be not produced when asked for, the said Master shall be liable to a penalty of Twenty Pounds.

IX. Wharf Dues, Tug Dues, Light Dues, and Deck Cargo.

Act 13, 1899.

122. There shall be levied upon all goods, articles, or things landed or shipped at or in any port or landing place in this Colony such wharf dues as shall from time to time be determined by the Governor in Council by proclamation, not being more than Ten Shillings for every Hundred Pounds of value of such goods, articles, and things; and such dues shall be paid at the time of entry to the Collector or other principal officer of Customs.

Wharf dues.

123. For the purpose of the upkeep of the Steam Tugs belonging to the Government, there shall be charged upon all goods imported upon which duty is payable such a sum as may from time to time be determined by the Governor in Council by proclamation, but not exceeding 3d. for every Pound or part of a Pound of the duties payable, which sum shall be payable at the time of entry, to the Collector or principal officer of Customs.

124. For the purpose of the maintenance of the Lighthouses in this Colony, there shall be payable to the Collector of Customs such an amount per ton register of every ship entering into or anchoring off the port of Port Natal as may be determined from time to time by the Governor in Council by proclamation; and it shall be lawful for the Collector of Customs to refuse to clear any such vessel until the said dues have been paid.

Light dues.

125. It shall be lawful for the officers of Customs to measure the space occupied by any deck cargo that may be carried by any vessel arriving at or departing from any port or place in the Colony; and Light Dues, Port and Harbour Dues and Charges shall be charged on the tonnage of such space in addition to the register tonnage of such vessel. The Master or agent shall at the time that report or clearance of the ship is made answer any questions concerning such deck cargo as shall be demanded of him by the Collector or other proper officer of Customs: Provided that a declaration and certificate of deck cargo space tonnage by the Master, owner, or agent may, at the option of the Collector of Customs, be accepted in lieu of the actual measurement. In the case of animals carried as deck cargo, such space shall be ascertained by a scale of cubic feet space per animal to be prescribed by the regulations in that behalf.

Deck cargo.

126. Notwithstanding the provisions of the foregoing sections, the regulations made under this Act may provide for the reduction of Wharf Dues, Tug Dues, and Light Dues, in such cases as may be expedient, or for exemption from payment of any such dues.

Reduction of or exemption from wharf, tug, or light dues.

127. Goods which by law are allowed to be imported free of Customs duty shall, upon importation by sea, be liable equally with all other goods to the payment of Wharf Dues.

Free goods liable to wharf dues.

X. Smuggling, Seizures, and Forfeitures.

128. Any person who shall evade or attempt to evade the payment of Customs duties, or who shall not produce any goods when lawfully called upon to do so, or who shall be in any way concerned in the evasion or attempted evasion of such payment, or in the not producing, or in the carrying uncustomed goods, shall forfeit treble the duty-paid value of such goods, or the sum of One Hundred Pounds, at the election of the Collector of Customs, and the goods shall be forfeited.

Smuggling and evasion of customs duties.

129. All vessels, boats, carts, carriages, vehicles, or animals made use of in the importation or removal of any goods liable to forfeiture under this Act or any Act relating to the Customs, may be seized and forfeited; and every person who shall assist or be otherwise concerned in the importing, unshipping, shipping, landing, or removal, or in the

Forfeiture of vessels, vehicles and animals used in smuggling.

Act 13, 1899. Accessories. harbouring of goods liable to forfeiture or forfeited under this Act, or into whose hands or possession the same shall knowingly come, shall forfeit treble the duty-paid value thereof, or the penalty of One Hundred Pounds, at the election of the Collector or a proper officer of Customs; and the averment in any indictment, plaint, or declaration to be exhibited for the recovery of such penalty that the Officer proceeding has elected to sue for the sum mentioned in the information shall be deemed sufficient proof of such election without any further or other evidence of such fact.

Seizure of things for forfeiture.

130. All things liable to forfeiture under this Act, or any Act relating to the Customs, may be seized and secured by any officer of the Customs.

Collusive acts by officers: bribery, &c.

131. If any officer of Customs or any person duly employed for the prevention of smuggling, shall make any collusive seizure or deliver up, or make any agreement to deliver up or not to seize any vessel, boat, goods, stores or vehicle liable to forfeiture under this Act or any Act relating to the Customs, every such officer or other person shall for every such offence be liable to a penalty of One Hundred Pounds, and be rendered incapable of serving Her Majesty in any office whatever; and every person who shall give or offer, or promise to give, or procure to be given, any bribe, recompense, or reward to, or shall make any collusive agreement with, any such officer or person as aforesaid, to induce him in any way to neglect his duty, or to do, conceal, or connive at, anything whereby the provisions of this Act or of any Act or regulations relating to the Customs may be evaded, shall be liable to a penalty of Two Hundred Pounds.

Condemnation and forfeiture.

132. All things liable to forfeiture may be seized by any proper officer of Customs, and may on the expiry of one month thereafter be condemned and forfeited by the Collector of Customs, with the approval of the Minister, without any adjudication of forfeiture, and may be dealt with and disposed of as hereinafter prescribed: Provided that the owner or the person from whom any such thing shall have been seized may, within one month from the date of seizure, give notice in writing to the Collector of Customs that he claims the same; but provided also that unless he shall give such notice, and shall also, within six weeks from the date of seizure or such further time as the Court may allow, institute and prosecute with all reasonable speed proceedings for setting aside the seizure, the Collector of Customs may upon due notice to such owner or person proceed to deal with and dispose of the goods or other things in manner hereinafter provided.

Procedure to set aside seizure.

Writ of assistance: entry, search, and seizure thereunder.

133. Under the authority of a writ of assistance granted by the Supreme Court or a Judge thereof, it shall be lawful for any officer of the Customs, taking with him an officer of police if necessary, to enter any building or other place in the day time, and to search for and seize and secure any goods upon which the duties have not been, or are supposed not to have been paid, or which are liable to forfeiture under this Act or any Act relating to the Customs, and in case of necessity to break open any doors and any chests or other packages for that purpose; and such writ of assistance when issued shall be deemed to be in force during the whole of the reign in which the same shall have been granted, and for twelve months from the conclusion of such reign.

Custody and sale of forfeited goods.

134. All things which shall be seized, as being liable to forfeiture under this Act, or any Act relating to the Customs, shall be taken forthwith, and delivered into the custody of the Collector or other principal officer of Customs at the Customs house nearest to the place where the same were seized, who shall secure the same by such means, and in such manner, as shall be prescribed by the regulations; and the Collector shall cause the same to be sold by public auction to

the highest bidder: Provided always that it shall be lawful for the Minister to direct in what manner the produce of such sale shall be applied, or, in lieu of such sale, to direct that any of such things shall be destroyed, or shall be reserved for the public service. Act 13, 1899.

135. If any goods shall be seized for non-payment of duties, or any other cause of forfeiture, and any dispute shall arise whether the duties have been paid for the same, or the same have been lawfully imported, or lawfully laden, or exported, the proof thereof shall lie on the owner or the person claiming such goods, and not on the officer who shall seize or stop the same. Onus of proof of payment of duty.

136. Any forwarding agent, or landing or shipping agent who shall be convicted of contravening any of the provisions of this Act, or any Act relating to the Customs, shall forfeit his license to act or perform work as such and shall not again, except by permission of the Governor, be allowed to obtain such a license or to perform work in connection with Customs matters; and any pilot so convicted shall forfeit his license to act in that capacity, and shall thereafter be rendered incapable of serving Her Majesty in any office whatever. Forfeiture of license by agents ;
by pilots.

137. The Collector or other senior officer of Customs may, in the execution of his office, sell goods by auction without being compelled to take out a license for that purpose. No license required for sale by auction.

XI. Regulations.

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. All regulations in force at the date of taking effect of this Act shall be deemed to be regulations made under this Act save so far as may be contrary thereto. Existing regulations.

140. The Governor in Council may from time to time make special disciplinary regulations relative to the Customs Department, and may by such regulations appoint penalties for breaches thereof, not exceeding, in any one month, seven days' pay of an officer or employee and in no case exceeding Five Pounds. Disciplinary regulations.

141. The imposition of any such penalty shall be in the absolute discretion of the Collector of Customs, acting with the approval of the Minister. Penalties.

XII. Offences, Prosecutions and Legal Proceedings.

142. The contravention, infringement, or wilful disregard of any obligation or prohibition imposed by this or any other Act relating to the Customs, or by the regulations thereunder, shall be deemed an offence. Offences.

143. The enforcement of the penalties and forfeitures imposed by this or any other Act relating to the Customs, or by any regulations thereunder, shall be by criminal prosecution in any competent Court, or any such penalties or forfeitures may be sued for by a civil action at the instance of the Collector of Customs, without prejudice, however, to the exercise of any powers of seizure and forfeiture competent to him under this Act. Enforcement of penalties and forfeitures.

144. If any penalty be not paid on conviction, the Judge or Magistrate may forthwith commit the offender to prison, there to be imprisoned with or without hard labour for such term as such Judge or Magistrate shall see fit to order, and as shall be within the competency of the Court, unless the penalty be sooner paid. Imprisonment for default of payment.

145. Wherever in this Act, or any Act relating to the Customs, the pecuniary penalties appointed for the contravention of the provisions Discretion as to amount of penalties.

Act 13, 1899. thereof are fixed sums, the Court may exercise discretion as to awarding the full penalty appointed, or any less penalty.

Jurisdiction of Magistrates.

146. All offences for which no special punishment is appointed shall be cognisable in the Courts of Magistrates, and punishable by fine or imprisonment, with or without hard labour, according to the ordinary jurisdiction of such Courts. All offences for which no greater punishment than a fine or penalty of One Hundred Pounds or imprisonment, with or without hard labour, for six months is appointed, shall be cognisable in the Courts of Magistrates. Any case in which a penalty of not more than One Hundred Pounds is sued for shall be cognisable in the Courts of Magistrates.

Special jurisdiction of Magistrates under certificate by Attorney General.

147. Where an offence has been committed against any Act relating to the Customs, which offence would not otherwise be cognisable by a Magistrate, by reason of the punishment to which the same is subject, it shall be lawful for the Attorney-General to direct the case to be tried in the Court of a Magistrate, or to remit the case for trial in the Magistrate's Court, and thereupon it shall be competent for such Magistrate to take cognisance of such offence, and to award in respect thereof such punishment as is competent under the ordinary criminal jurisdiction of a Magistrate's Court: Provided that no person shall be deprived of the right competent to him under Section 5 of Law No. 16, 1861, or of any Act amending or extending the provisions thereof.

Powers for arrest without warrant.

148. The provisions of Section 22 of the Ordinance No. 18, 1845, entitled "Ordinance for regulating the manner of proceeding in criminal cases in the District of Natal" or the similar provisions of any Act amending the said section, shall apply in respect of every offence against this or any other Act relating to the Customs. Every officer of the Customs shall, for the purposes of this section and of the said section of Ordinance No. 18, 1845, as applicable to this section, be deemed to be an officer of the law.

Offender may be brought up upon summons.

149. It shall be competent for the Collector or principal officer of Customs to elect that an offender shall be brought before the Magistrate by summons, and should the summons be disobeyed, the Magistrate may issue a warrant for the arrest of the offender.

Customs Officer may secure smugglers, &c., and take them before Magistrate.

150. The Collector or other proper officer of Customs shall have the power, in all cases where a person is detected or is concerned in an attempt to import or land goods illegally or to evade the payment of duties upon any goods, to forthwith take the offender or offenders before the Magistrate to be summarily or otherwise dealt with, or to secure such offender, in the Police Office or other suitable place, until he can be so taken before the Magistrate.

Bail for offence cognisable by Magistrate.

151. The Collector of Customs, or any officer of Customs duly appointed by him, shall have the authority of an officer of Police for the taking of bail for any offence in respect of the Customs cognisable in a Magistrate's Court.

Discretion of Collector to waive proceedings, or demand part of penalty, or release things seized.

152. The Collector of Customs, with the approval of the Minister, may waive proceedings against any person liable to a penalty or forfeiture under this or any other Act relating to the Customs, or may demand, accept, or sue for the whole of such penalty or forfeiture or any part thereof. It shall also be lawful for the Collector, with the approval of the Minister, to release all things detained or seized for any contravention of this Act or of any Act relating to the Customs upon the payment of such sum of money as the Collector may determine, or on such terms as may be considered by him adequate.

Remission of penalty or forfeiture in civil suit.

153. The Minister may remit the whole or any part of a penalty or forfeiture adjudged in a civil suit, but nothing in this section shall be deemed to apply to any criminal proceedings or to the sentence of a Criminal Court.

154. Proceedings for securing the punishment of any offence against the Acts relating to the Customs, or for enforcing any penalty or penalties or forfeiture incurred, may be taken at any time within three years from the commission of the offence. **Act 13, 1899.**
Prescription of criminal and other proceedings.
155. It shall be lawful for the Collector of Customs, with the approval of the Minister, to award any special sum out of a penalty recovered or out of the proceeds of the sale of any forfeited property, to the officer or person by whose means and information the offence has been made known. Reward to informer.
156. No person shall be admitted to enter a claim to anything seized in pursuance of this Act, or any Act relating to the Customs, until sufficient security shall have been given in the Court where such claim is prosecuted, in a sum not exceeding One Hundred Pounds, to pay the costs occasioned by such claim. Security for costs in suits for things seized.
157. No action shall be instituted against any officer of the Customs, 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. Actions against Customs officers: notice.
158. 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 Customs, 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, 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. No plaintiff's costs in certain cases.
159. 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. Exemption from prosecution.
160. Every person who shall make any false declaration or untrue statement in connection with any matter relating to the Customs, or who shall counterfeit, falsify, or falsely make, or wilfully use when counterfeited, falsified, or falsely made, any entry, warrant, cocket, transire, or other document for the unloading, lading, entering, reporting, or clearing any ship or vessel, or for the landing, shipping, or removing from ship, shed, or warehouse, of any goods, stores, baggage, or article whatever, or who shall by any false statement procure any writing or document to be made or given for any such purposes, or who shall forge, falsify, falsely make, or counterfeit or alter any Customs document whatever, shall be guilty of an offence, and shall for every such offence be liable to a penalty of Two Hundred Pounds. Limit of costs in certain cases.
161. No person merely by reason of any criminal proceedings against him under this Act, or any Act relating to the Customs, shall be exempted from payment of any duties, or from liability under any bond, or from any civil suit or action. False declarations, forgery and falsification of documents.
162. A criminal prosecution or conviction under this or any Act relating to the Customs shall not prejudice any other criminal prosecution to which the offender would otherwise be liable, provided that he be not punished twice for the same act. Criminal proceedings no bar to civil suit.

XIII. Miscellaneous.

163. Whenever any person shall make application to any officer of Customs, to transact any business on behalf of any other person, such officer may require the person so applying to produce a written authority Saving of liability for other crimes.
Agents must have written authority to transact business.

Act 13, 1899. from the person on whose behalf such application shall be made, and in default of the production of such authority, may refuse to transact such business.

Lock, mark, or seal may be placed on goods suspected not to be duty-paid.

164. Any officer of Customs with general authority from the Collector of Customs may place any lock, mark, or seal on any goods or on any package or place containing any goods on shore, whether in a bonded warehouse or not, upon which the proper duties of Customs have not been or are suspected not to have been paid; and if such lock, mark, or seal shall be wilfully opened, altered, or broken, or if such goods so secured shall be secretly conveyed away so that they cannot be accounted for to the satisfaction of the Collector or proper officer of Customs, the owner or remover of such goods shall be liable to a penalty not exceeding Two Hundred Pounds.

Expenses of landing, examination, weighing, &c.

165. The unshipping, shipping, carrying, landing, opening, closing, packing, unpacking, or repacking of all packages or goods, and the bringing of the same to the proper place for examination, or for weighing, or for gauging, or for measuring, and the putting the same into the scales for weighing or removing therefrom shall be performed by or at the expense and risk of the importer or exporter, as the case may be, and in the case of goods examined in the warehouse, at the expense and risk of the proprietor of the goods.

Sampling by Customs officers.

166. The officers of Customs may, on the entry of any goods or at any time afterwards, take samples thereof for examination, or for ascertaining the duties payable on the same, or for such other purpose as the Collector of Customs may deem necessary, and such samples shall be disposed of and accounted for in such manner as the Collector of Customs may direct.

Permission to take samples without payment of duty.

167. The Collector may, under such regulations as he shall prescribe, permit moderate samples to be taken of any goods without entry and without payment of duty, except as the same shall eventually become payable as on a deficiency of the original quantity.

Bonds by landing, shipping, and forwarding agents and carriers.

168. Landing, shipping, and forwarding agents transacting Customs business, and trolley owners and others carrying goods, upon which the duties have not been paid, and which are being removed under bond, shall, if required by the Collector of Customs and before such Customs business can be transacted or such goods be carried, enter into security by bond, with one or more sureties and in such amount as the Collector of Customs may deem sufficient, that they will duly observe all regulations laid down by the Collector of Customs, to govern such business or carrying as the case may be. Such bond may be a general one to cover all such work to be done at any time.

SCHEDULE A.

ORDINANCE, LAWS, AND ACTS REPEALED.

	No. and Year.	Title.	Extent of Repeal.
Schedules.	Ord. 6, 1855.	Ordinance for the general management and regulation of the Customs in the District of Natal.	The whole Ordinance.
	Laws.		
	18, 1866.	Law to repeal Law No. 30, 1865, entitled "Law to amend the Ordinance No. 6, 1855, entitled 'Ordinance for the general management and regulation of the Customs in the District of	

No. and Year. Laws.	Title.	Extent of Repeal.	Act 13, 1899. Schedules.
13, 1868.	Natal," and also to amend the said Ordinance No. 6, 1855. Law to authorise the levying and collection of Dues at the Port of Natal in respect of the Lighthouse on the Bluff Rock.	The whole Law.	
12, 1875.	Law to enable certain Wharfage Dues to be levied at the Harbour of Port Natal.	The whole Law.	
9, 1877.	Law to give effect to certain provisions of the Imperial Merchant Shipping Act of 1876, and to provide for levying of Light Dues on vessels carrying Deck Cargoes between the United Kingdom and this Colony.	The whole Law.	
2, 1885.	To amend Law 17 of 1874.	The whole Law.	
11, 1885.	To amend Customs Ordinance No. 6 of 1855.	The whole Law.	
6, 1886.	To provide for the continuance of certain Customs Duties, Fees or Charges imposed by the Steam Tug Loan Law, 1871.	The whole Law.	
7, 1886.	To continue the Law No. 12, 1875, entitled "Law to enable certain Wharfage Dues to be levied at the Harbour of Port Natal."	The whole Law.	
6, 1888.	To repeal and re-enact with amendments the Law No. 15, 1887, entitled "Law to provide for the rebate of Customs Duties on Goods, Wares, or Merchandise, including Wines and Spirits, purchased in Natal for the use of Her Majesty's Forces and Military and Naval Officers."	The whole Law.	
10, 1888.	To amend the Ordinance 6, 1855, entitled "Ordinance for the general Management and Regulation of the Customs in the District of Natal."	The whole Law.	
8, 1889.	To amend Ordinance 6, 1855, entitled "Ordinance for the general Management and Regulation of the Customs in the District of Natal."	The whole Law.	
3, 1893.	To amend the Laws relating to the general Management and Regulation of Customs and to provide for the establishment of Ports of Entry and Departure other than the Port of Port Natal.	The whole Law.	
4, 1893.	To continue with certain amendments, the Customs Duties and Transit Dues Law, 1886, and to extend the provisions of Law No. 6, 1888.	The whole Law.	

Act 13, 1899. Schedules.	No. and Year. Acts.	Title.	Extent of Repeal.
	35, 1894.	To amend Ordinance No. 6, 1855, entitled Ordinance "For the General Management and Regulation of the Customs in the District of Natal."	The whole Act.
	19, 1896.	To amend the Laws relating to the Customs.	The whole Act.
	6, 1898.	For the better protection of the Customs and Excise Revenue in certain cases.	The whole Act so far as it relates to the Customs.
	47, 1898.	To amend the Laws relating to the Wharf Dues and Tug Duties.	The whole Act.
	50, 1898.	To provide for the entry of the Colony of Natal into a South African Customs Union, and to amend the Laws relating to the Customs.	Sections 6, 7, 8, 9, 18, 20, 21, 24, 26.

III. EXCISE.

Law No. 14, 1868.

"To amend the Law as to the Distillation of Spirituous Liquors."
[16th September, 1868.]

WHEREAS it is expedient to amend the Laws now existing in regard to the distillation of spirituous liquors:—

AND WHEREAS this can be more conveniently done by repealing the said Laws and enacting another in lieu thereof:

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

Repeals.

1. That the Law No. 31 of 1865, entitled Law "To amend the Law as to the Distillation of Spirituous Liquors," and sections 29, 31, and 32 of Ordinance No. 9, 1847, entitled "Ordinance for regulating the Sale of Wines and Spirituous and Fermented Liquors within the District of Natal," and the Law No. 23, 1866, entitled Law "To amend the Law No. 31, 1865, entitled 'Law to amend the Law as to the Distillation of Spirituous Liquors,'" shall be and the same are hereby repealed, save only and except so far as regards all offences against, and all penalties and forfeitures incurred under the said Laws or either of them, all which offences may be prosecuted, and all which penalties and forfeitures may be sued for, enforced, and recovered in the same manner as if this Law had not been passed, and save also and except so far as regards all appointments of Excise Surveyors or other officers already made under the authority of the said Laws or either of them, and save also and except so far as regards all licenses to distil issued under the authority of said laws, or either of them, all which said licenses are to be considered as issued under this Law.

Exceptions.

Law 14, 1868.

2. [Repealed by Act No. 48, 1898.]

3. [Repealed by Law No. 8, 1892.]

4. The constables of police shall be aiding and assisting in the execution of this Law, and every police constable shall have all such powers of constables of police, and the same powers, authorities, and privileges as are given by this Law to any Excise Surveyor, and the words "Excise Surveyor," wherever used in this Law, shall extend to and include all assistant Excise Surveyors.

5. [Repealed by Law No. 8, 1892.]

6. [Repealed by Law No. 8, 1892.]

7. [Repealed by Law No. 8, 1892.]

8. [Repealed by Law No. 36, 1874.]

9. No license shall be granted for the use of any still, not being a private still, unless the building within which such still shall be situated shall be at least five miles from the nearest frontier of the Colony, unless by special consent of the Lieutenant Governor.

Building containing still to be five miles from frontier of Colony.

10. Every person before obtaining a license to distil spirituous liquors shall, on each and every obtaining of such license, together with two sureties to be approved by the Resident Magistrate, enter into a bond in the form in the schedule B hereunto annexed, or as near thereto as may be.

Person obtaining license to enter into bond.

11. In the event of any surety becoming in the opinion of the [Receiver General (A)] insufficient from any cause, the said [Receiver General] shall give notice to the distiller to furnish another sufficient surety in his stead; and if this be not done within one calendar month after such notice, it shall be lawful for the Excise Surveyor to cause the still of such distiller to be placed under seals until such surety be furnished.

Insufficiency of surety.

12. Any Resident Magistrate may refuse to renew the license of or to issue a license to any distiller or any other person who shall have been convicted before any competent tribunal of having illicitly distilled, rectified, removed, transported, or sold Colonial spirits.

Person convicted of illicit distilling, &c., may be refused license.

13. No still shall be authorised or allowed to be used under this Law for distilling any substance or article into spirituous liquors the body of which, without the head thereof, shall be of less content than one hundred and fifty gallons: [Provided, however, that this provision shall not apply to stills at present in use in this Colony under any license already granted, nor to stills used by the owner or occupier of any land or farm for distilling spirits from grapes, peaches, figs, or other fruit being the produce of such land or farm (B)].

Stills not to be under 150 gals. content.

14. [Repealed by Act No. 48, 1898.]

15. [Repealed by Law No. 8, 1892.]

16. Any person to whom a license shall have been granted under this Law may surrender the same to the [Receiver General (c)].

Licenses may be surrendered.

17. It shall not be lawful for any person, at any time after the expiration of the time for which any such license for using a still shall be granted under this Law, to continue to work or use any still, or to brew or make any wort or wash, or to distil any rum or other spirits, until such person shall have obtained a new license for that purpose; and if any person shall continue to keep or work, or shall use any still, or make or brew any wort or wash, or shall distil any rum or other spirits contrary to this Law, every such person shall in every such case forfeit the sum of one hundred pounds, and all such

Licenses must be renewed.

(A) By Law 14, 1876, s. 3, the term "Receiver-General" was altered to "Controller of Excise," but see now Law 8, 1892, repealing and re-enacting Law 14, 1876. See also Law 1, 1871,

s. 3, post.

(B) Words in brackets repealed by Act 48, 1898, post.

(C) See note to sec. 11, ante, and Law 1, 1871, s. 3, post.

Law 14, 1868. wort, wash, and spirits, and every such still with the head and worm thereof, and all other vessels and utensils therewith used or containing such wort, wash, rum, or other spirits shall be forfeited, and may be seized by the [Receiver General] or any Excise Surveyor, officer of customs, or police constable.

Distillers not to be retailers.

18. No person to whom a license to use a still shall be granted under this Law shall be a retailer of spirits, or in any manner interested or concerned in the trade or business of a retailer of spirits; and every person to whom a license to use a still shall be granted under this Law who shall retail or knowingly suffer or permit any servant or other person in his employ to retail spirits, shall for every such offence forfeit and pay the sum of fifty pounds.

19. [Repealed by Law No. 8, 1892.]

Returns to be made by licensee to Excise Surveyor

20. Every person to whom a license to use a still shall be granted under this Law shall on the first, second, or third day of each month, make or cause to be made a true return in writing to the Excise Surveyor of the district of all rum and other spirits, low wines and spirits classed as low wines, as aforesaid, made or distilled by him within the calendar month immediately preceding, and of the strength or proof of such rum, low wines, and other spirits, the quantity of spirits removed or disposed of during such period, the quantity on hand, if any, together with the vouchers hereinafter mentioned; and such return shall be signed by the person to whom such license shall have been granted, or some person as his agent and on his behalf, being the person having the charge or superintendence of the still upon or at which such rum or other spirits shall have been made or distilled; and the Excise Surveyor shall cause all such returns to be forthwith delivered to the [Receiver General (A)], and if any person to whom any such license shall have been granted shall neglect to make or cause to be made such return as aforesaid, or if any return so made by such person, or by any other person as his agent and on his behalf, shall be wilfully false in any respect, the person to whom such license shall have been granted shall, for every such offence, forfeit and pay the sum of fifty pounds.

Penalty for neglecting to make or making false returns.

Receiver General to make entries in book.

21. The [Receiver General] shall enter in a book to be provided for the purpose, and to be called the "Book of Duties on Spirits," to a separate account, to be opened in the name of each person to whom any license shall be granted under this Law, distinguishing the building, farm, or premises in respect whereof such license shall have been granted, the several quantities of low wines, rum, or other spirits which shall appear from time to time to be made and manufactured in or upon such farm, building, or premises, and the amount of the duties payable in respect thereof under this Law.

Provisions as to removal of rum or other spirits from distillery.

22. No rum or other spirits shall be removed from the distillery or other place where the same was or were made in any cask or vessel of less capacity than fifteen gallons; and every cask in which rum or other spirits shall be put up for removal shall be marked and numbered on the outside and on the end (B) thereof, in letters or figures legibly cut, branded, or painted thereon, with the name of the licensed distiller by whom, and with the year in which such rum or other spirits shall have been made or distilled, and with the number of such cask according to its order in the whole series of such casks for the year, beginning with the number one and proceeding therefrom in an ascending scale by regular arithmetical progression the difference whereof shall in all cases be one, with the quantity and strength of the spirits contained in such cask; and if any such rum or other

(A) See note to sec. 11, ante.

(B) The words "both ends" substituted for "the end" by Law 8, 1892, s. 10, post.

spirits shall be removed from the distillery, still-house, building, or other place wherein the same was made in any cask or vessel of less capacity than fifteen gallons, or in any cask which shall not be so marked or numbered as hereinbefore directed, such rum or other spirits, and the cask or vessel containing the same, shall be forfeited, and may be seized by the Excise Surveyor or any officer of Customs; and the person to whom the license in respect of such distillery, still-house, building, or other place shall have been granted, shall for every such offence forfeit and pay the sum of fifty pounds; and any person in whose possession shall be found any cask containing rum or other spirits, which cask shall not be so marked and numbered, shall for every such offence forfeit and pay the sum of fifty pounds.

Law 14, 1868.
Forfeiture for
wrongful
removal.

23. No spirits whatever, except as hereinafter specially provided, shall be sent out of the stock, custody, or possession of any distiller of spirits, nor shall be removed from the distillery, still-house, building, or other place within which the same were made or manufactured, rectified or compounded, or kept by any distiller of spirits, without a permit first granted and signed by the [Resident Magistrate (A)] of the county or division within which such distillery, still-house, building, or other place shall be situated, upon a request note subscribed by the person wishing to remove such spirits or by some person in his behalf, and delivered to such Resident Magistrate, and specifying therein the quantity, quality, sort or kind, and strength of such spirits; and also specifying the casks or other vessels containing the same, the person from whom, the place from which, and the person to whom and the place to which such spirits are to be sent, and by what mode of conveyance the same are intended to be sent; which permit or removal note shall be made to correspond in respect of all the particulars aforesaid with such request note; and a reasonable time shall be limited and specified in every such permit within which such permit is to be in force; and no permit shall be valid or of any effect if the same shall be granted on any request note not made conformably with the directions of this Law; and all rum or other spirits which shall be sent out, removed, or carried without such permit as aforesaid, together with the casks, vessels, and other packages containing the same, and also the horses and other cattle and wagons or other vehicles made use of in the removal or conveyance thereof, shall and may be seized by the Excise Surveyor or officer of Customs; and if any distiller shall send out, deliver, or carry, or knowingly permit to be sent out, delivered, or carried, any spirits whatsoever from or out of the stock, custody, or possession of such distiller, or from or out of any house, building, or other place wherein such spirits were made, manufactured, or kept by any such distiller of spirits without such permit as aforesaid, or with any permit not corresponding with such spirits in quantity, quality, sort or kind, and strength, every such distiller shall, over and above the forfeiture of the said spirits, if seized, forfeit the sum of one hundred pounds: Provided always, no permit shall be granted to the first purchaser of rum or other Colonial spirits from the distiller thereof for any smaller quantity than fifteen gallons: Provided further, no permit shall be granted to remove rum or other spirits distilled under this Law until the duties imposed by this Law upon rum or other spirits shall have been paid by the purchaser to the Resident Magistrate granting the permit, or a receipt for the payment of said duties signed by some other Resident Magistrate and handed over to him; and every such Magistrate shall transmit every such receipt to the Colonial Treasurer: Provided, in case of

Spirits not to be
removed
without permit.

Duties must be
paid.

(A) Law 8, 1892, s. 11, substitutes the words "Controller of Excise."

Law 14, 1868. removal of rum or other spirits from private stills, the Resident Magistrate may grant such permit therefor without payment of duty.

Permits on imported spirits.

24. Upon due entry and payment of duty for home use of any spirits imported into the Colony of Natal, the Collector or other officer of customs to whom duty shall be paid, shall issue to the person paying the duty imposed thereon, a permit signed by the said Collector or officer of Customs, and specifying therein the quantity, quality, sort or kind of such spirit, and also specifying the casks or other vessels containing the same, the person to whom, and the place from which and to which such spirits are to be sent, and by what mode of conveyance the same are intended to be sent; and a reasonable time shall be limited and specified in every such permit within which such permit may be in force.

Permits on spirits distilled in Colony.

25. In every permit shall be expressed and limited as well the time, during which the permit shall be in force, for removing the rum or other spirits for which the permit shall be obtained, from and out of the stock of the distiller, from which it is to be removed, as also the time within which the same shall be delivered to, and actually received by, the person to whom the same shall be so permitted to be sent; and every permit which shall not be actually used as directed by this Law, within the time expressed and limited in such permit, shall, within the said time, be returned and re-delivered by the person who shall have obtained the same to the [Receiver General (A)] or the [Resident Magistrate (B)] by whom the same shall have been granted; and if any permit shall not be so returned as aforesaid, and upon taking an account by the Excise Surveyor, or any officer of Customs, of the stock remaining in the hands or custody of the person from, or out of whose stock the rum or other spirits mentioned in such permit, were thereby authorised to be removed, there shall not appear to be a sufficient decrease to answer the removal mentioned in such permit, then the person from or out of whose stock the rum or other spirits mentioned in such permit were thereby authorised to be removed, shall forfeit the like quantity of rum or other spirits so permitted to be removed, and not removed according to such permission, and the same may be seized by the Excise Surveyor or any officer of customs; and in case any rum or other spirits specified in any permit shall be removed from the stock of the person from whose stock it was to be removed, and the same shall not, within the time expressed and limited in such permit, be actually delivered and received into the stock of the person to whom the same are mentioned in such permit to be sent, then, and in every such case, all such rum or other spirits so removed as aforesaid, shall be deemed to be removed without permit, and shall be forfeited and seized accordingly.

Spirits delayed to be delivered owing to accident.

26. In case any rum or other spirits shall, through any unavoidable accident or necessity, be delayed, and thereby be prevented from being delivered into the stock of the person to whom the same are to be sent within the time limited and expressed in the permit, then, and in every such case, the Court, when any prosecution shall be instituted, for the condemnation of such rum or other spirits, shall, upon proof of any such unavoidable accident or necessity, direct the same to be restored to the owner or claimant thereof.

Offences in regard to removal of spirits under permit, &c.

27. Every person who, having obtained a permit for the removal of any rum or other spirits, shall neglect to remove the same, or return and re-deliver the permit to the [Resident Magistrate (c)] within the

(A) See note to sec. 11, ante.

(B) Law 8, 1892, s. 11, post, substitutes the words "Controller of Excise."

(c) Law 8, 1892, s. 11, substitutes the words "Controller of Excise."

time limited and expressed for the removal of such rum or other spirits, and every distiller who shall without sufficient cause refuse to permit the removal of such rum or other spirits, shall for every such offence forfeit a sum not exceeding ten pounds (A). Law 14, 1868.

28. It shall and may be lawful for the Lieutenant Governor, with the advice of his Executive Council, at any time hereafter to appoint and establish in each county or division of the Colony such public warehouses for the warehousing of spirits under this Law (B) as he may deem necessary, and after the establishment of such public warehouses persons to whom licenses to use stills shall have been granted under this Law may warehouse spirits therein without the payment of the duties imposed by this Law (c), but under such conditions and subject to such rules and regulations and to the payment of such charges as the Lieutenant Governor shall from time to time direct, and the appointment of all such public warehouses shall be notified, and all such rules and regulations published, in the "GOVERNMENT GAZETTE." Public warehouses.

29. No rum or other spirits so warehoused in any such public warehouse shall be removed therefrom without a permit being first granted to accompany the same, which permit shall be obtained by the distiller, or the person on whose behalf such spirits are warehoused, in the same manner and subject to the same provisions, so far as applicable, as hereinbefore provided in reference to permits obtained by purchasers of spirits. No spirits shall be warehoused in any public warehouse unless the same shall be contained, in iron-bound casks of not less than fifteen gallons contents each; and there shall be marked on each end of every cask, in letters or figures legibly cut, branded, or painted thereon, the name of the farm or premises on which, or of the licensed distiller by whom, and of the year in which such rum or other spirits shall have been made or distilled, and with the number of such cask according to its order in the whole series of such casks for the year, the full capacity thereof in gallons, and the quantity and strength of the spirits, and the number of gallons contained therein. Provisions as to warehousing spirits, and removing from public warehouse.

30. Immediately on the arrival of any rum or other spirits which may be warehoused in any public warehouse, the proper officer having the charge of such warehouse shall take an account of the contents of every cask by gauge, and the strength of the spirits contained therein, and shall enter an account thereof, with the marks and number of each such cask, in a book to be kept by him for that purpose, and such officer, after taking such account as aforesaid, shall deliver to the party warehousing such rum or other spirits, or any person requiring the same on his behalf, a certificate specifying the marks and number of each of the several casks and the several particulars so signed by him as aforesaid, with the day of the month and year when such rum or other spirits were warehoused as aforesaid, and the name of the [Magistrate granting the permit (D)] under which such rum or other spirits shall have been received. On arrival of spirits in warehouse contents of casks and strength of spirits to be taken and gauged.

31. All spirits so warehoused in any public warehouse shall, while in such public warehouse, be and continue at the sole risk of the party warehousing the same. Risk of party warehousing.

32. No spirits which shall have been warehoused in any such public warehouse shall be delivered out of any such warehouse for consumption in this Colony until the person desiring to remove the same shall have obtained a permit for such removal, and the full Permit for removal from warehouse.

(A) See proviso added by Law 8, 1892, s. 11, post.

(B) Law 8, 1892, s. 12, post, adds the words "or imported spirits or wines."

(C) As to racking and bottling same, see Act 32, 1895, s. 10, post.

(D) Words in brackets expunged by Law 8, 1892, s. 13, post, and others substituted.

Law 14, 1868. duties payable under this Law in respect of such spirits, according to the quantity of the same at the time of such removal shall have been paid to the [Resident Magistrate (A)] granting such permit, or a receipt for the payment of said duties, signed by some other [Resident Magistrate], be handed over to him; and such Magistrate shall, upon request, sign and give to such person a certificate of such payment of duty (which may be inserted in the permit), specifying in such certificate the number and marks of the casks in respect whereof such duty shall have been paid; and the officer having charge of such public warehouse shall, upon production of such permit and certificate, and on payment of the charges for warehousing and keeping the same, deliver up such spirits as shall be mentioned in such permit and certificate.

33. [Repealed by Law No. 24, 1888.]

Duty remitted
on exportation
of spirits.

34. When the owner of any rum or other spirits shall be desirous of exporting the same from the Colony, the [Collector of Customs (B)] may, on the application of such owner, grant his permission in writing, signed by such [Collector of Customs], for the removal from the distillery, still-house, or other place where the same may have been made or manufactured, in case the same shall not have been warehoused, or for the removal from the warehouse in case the same shall have been warehoused, and for the exportation of such rum or other spirits from the Colony, without payment of the duties imposed by this Law, in casks of not less than fifteen gallons content each, and on board of such vessel, and to such port as shall be named in such permission; and such permission shall specify the numbers, marks, and contents of the casks, and the strength of the rum or other spirits in the casks, in respect whereof such permission shall be granted, and the officer having the charge of the warehouse, if any, in which such rum or other spirits shall be warehoused, shall, on production of such permission, and on payment of the charges for the warehousing and keeping of such rum or other spirits, deliver such rum or other spirits as shall be mentioned in such permission for exportation.

Penalty for
re-landing
spirits shipped.

35. If any rum or other spirits shipped on board of any ship or vessel for exportation from this Colony shall, without the written permission of the Collector of Customs, be unshipped in order to be re-landed, all such rum or other spirits, together with the casks or other packages made use of in the un-shipping or re-landing or removal thereof, shall be forfeited, and may be seized by any Excise Surveyor or other officer of Customs, and every person who shall so un-ship, or cause to be un-shipped, any such rum or other spirits, or shall be assisting or concerned in such un-shipping, or to whose hands the same shall knowingly come after such un-shipping, shall forfeit treble the value thereof; and if any master of such ship or vessel, or other person on board of the same, shall assist in or connive at such un-shipping or re-landing, such person shall, over and above all other penalties imposed by this Law, forfeit and pay the sum of fifty pounds: Provided the penalties in this section mentioned shall not be incurred if such spirits are un-shipped on account of a sufficient and necessary cause, to be approved of by the Collector of Customs, to whom notice shall be given before such un-shipment is commenced, unless this is impracticable, in which case such notice shall be given as soon as practicable, and such spirits so un-shipped shall be placed in such warehouse, in such manner and under such conditions as to the Collector of Customs shall seem fit.

(A) Law 8, 1892, s. 11, post, substitutes the words "Controller of Excise."

(B) The term "Controller of Excise" is substituted for the words in brackets

throughout this sec. by Law 24, 1888, s. 3, post. See also Law 1, 1871, ss. 4 and 5, post.

36. If the contents of any cask of rum or other spirits which shall have been shipped on board of any ship or vessel for exportation shall be drawn off, or the rum or other spirits contained in such cask shall be used or altered, either in quantity or quality, before such ship or vessel shall have sailed on her intended voyage, such cask, and the rum or other spirits contained therein, or drawn off, shall be forfeited, and may be seized by any Excise Surveyor or officer of Customs, and the master of the ship shall, in addition, forfeit and pay the sum of fifty pounds.

Law 14, 1868.
Penalty for drawing off spirits shipped.

37. In case any Excise Surveyor shall know, or have reasonable cause to suspect, that any private or concealed still, or any privately made wash or other materials prepared for distillation is, or are, set up or kept in any house or place, or that any rum or other spirits is, or are, stored, lodged, or kept in any house, building, yard, or place not duly entered as hereinbefore or hereinafter directed, then, and in such case, it shall be lawful to and for such Excise Surveyor, by day or by night (but if in the night time, in the presence of a police constable, who is hereby required to be aiding and assisting therein), to break open the door or any part of such house or place, where he shall know or suspect such private or concealed still, wash, or other materials for distillation, to be so set up and kept, or such rum or other spirits to be so lodged, stored, and kept, and to enter into such house or place, and to seize all and every such still, wash, and other materials preparing for distillation, and such rum or other spirits which he shall find and discover, and either to detain and keep the same in the house or place where found, or to remove the same to the police station, Resident Magistrate's office or gaol nearest to the place where the same shall be so found; and in case the same shall not, within ten days next after such seizure, be claimed by the true and lawful owner thereof, then the said still, wash, and other materials for distillation shall be absolutely forfeited, and the person in whose custody such still, wash, or other materials, rum or spirits, shall be found, whether such seizure be claimed or not, shall forfeit for every place in which every such private still, wash, or other materials, rum or other spirits shall be so found, the sum of two hundred pounds, and if any person shall obstruct, oppose, molest, or hinder any Excise Surveyor, or any person in assistance of the same, seizing any such private or concealed still, spirits, wash, or other materials for distillation, or in detaining and keeping the same in the place where found, or in removing the same, or removing the same as aforesaid after seizure, then, and in every such case, every person so offending shall forfeit the sum of two hundred pounds.

Excise Surveyor may break into premises where he suspects materials for distillation to be kept.

38. It shall and may be lawful for any Excise Surveyor—if he shall know or have reasonable cause to suspect that any distillation is being carried on contrary to the provisions of this Law—at all times by night or by day to enter into any house, distillery, still-house, out-house, and place whatsoever, of or belonging to or made use of by any distiller, and to gauge, measure, and take an account of every still or other vessel or utensil of any kind of or belonging to or kept therein by any such distiller, and to gauge and take an account of the quantity of all rum and other spirits which shall be from time to time made or distilled, or which shall be in such distillery, or in the possession of such distiller, and if any Excise Surveyor, or any person acting in his aid or assistance, shall be hindered, obstructed, or prevented by any distiller, or by any person or servant acting for or in the employment of such distiller, from entering, or shall not be permitted to enter into any distillery or any house, out-house, or other place whatsoever, of or belonging to or made use of by such distiller, or having entered shall be hindered, obstructed, or prevented

Power of Excise Surveyor to enter premises of distiller.

Penalty for obstructing Surveyor.

Law 14, 1868. from doing or executing any part of his duty in the execution of this Law, such distiller shall for every such offence forfeit the sum of one hundred pounds.

Penalty for delaying entrance of Surveyor.

39. In case any Excise Surveyor, after having demanded admittance into any distillery, and having declared his name and business at the gate or entrance door, or at any window of such distillery, shall not be immediately and without delay admitted into such distillery, the distiller shall for every such offence forfeit the sum of twenty pounds; and if such Excise Surveyor shall not immediately and without delay be admitted into such distillery after having so demanded such admittance, it shall and may be lawful for such Excise Surveyor, or any person or persons acting in his aid or assistance, at all times, as well by night (if in the presence of a constable or other peace officer) as by day, to break open by force any of the doors or windows or break through any of the walls as shall be necessary to enter such distillery.

Power to force an entry.

Penalty for not supplying sufficient assistance.

40. If, on demand of any Excise Surveyor made in the distillery of any distiller on any visit thereto, sufficient lights or sufficient aid or assistance shall not be supplied for the purposes of his gauging or ascertaining the content or capacity of any vessel or utensil, or of searching for or gauging and taking an account of all wort, wash, bub, low wines, feints and spirits, and of all materials fit or proper for distillation in such distillery or in the possession of such distiller, as well by day as by night, every distiller so offending, or on whose entered premises such neglect or offence shall take place, shall, in any of the cases aforesaid, for each and every such offence, forfeit the sum of fifty pounds.

Excise Surveyor may break up ground in search of concealed pipes.

41. It shall be lawful for any Excise Surveyor, if he shall know or have reasonable cause to suspect that any distillation is being carried on contrary to the provisions of this Law, and any person acting in his aid or assistance, by day or by night, to break up any ground in any part of the distillery or entered premises of any distiller, or near or adjoining to such distillery or premises, or any wall or partition thereof or belonging thereto, or other place, to search for any pipe or cock or any private conveyance or utensil; and upon finding any such pipe or conveyance leading therefrom or thereto, to break open the ground, house, wall, or other place through or into which such pipe or other conveyance shall lead, and to break up or cut away any such pipe, cock, or other conveyance, and to turn any cock, and to examine whether such pipe or other conveyance may or can conceal any wort, wash, or other liquor fit for distillation, or low wines, feints, or spirits, from the sight or view of the officer, so as to hinder or prevent him from taking or keeping a true account thereof; and every distiller on whose premises any such pipe, cock, or other conveyance may be found shall for every such offence forfeit the sum of fifty pounds.

Every distiller must keep gallon measure and gauging-rod.

42. Every distiller of or dealer in and retailer of rum or other spirits shall keep a one gallon measure and a gauging rod in his entered premises, and also shall maintain the same conveniently placed and ready for use, and shall permit and suffer any Excise Surveyor to use the same for the purpose of measuring and taking an account of the spirits and casks and other vessels or packages used or fit for conveying or removing spirits, which shall at any time be in the possession of such distiller, dealer, or retailer; and if any such distiller, dealer, or retailer shall not keep and maintain such measures, or shall not permit or suffer any Excise Surveyor to use the same as aforesaid, or shall, in the measuring of any such rum or other spirits, casks, vessels, or other packages, use or cause or procure or suffer to be used any false, unjust, or insufficient measure, or shall practise any art, device, or contrivance by which any such Excise Surveyor may be hindered or prevented from taking the just and true measure of any such spirits, casks, vessels, or

packages, then and in every such case such distiller, dealer, or retailer shall, for each and every such offence, forfeit the sum of fifty pounds; and all such false, unjust, and insufficient measures shall likewise be forfeited, and may be seized by any Excise Surveyor. Law 14, 1868.

43. Every distiller or dealer in or retailer of rum or other spirits shall, when and so often as he shall be thereunto required by any Excise Surveyor, and with a sufficient number of his servants, aid and assist to the utmost of his power such Excise Surveyor in measuring and taking an account of all rum and other spirits, and casks, vessels, and packages for keeping, conveying, or removing spirits in his possession, on pain of forfeiting for every neglect or refusal thereof the sum of fifty pounds. Distiller and dealer must aid Excise Surveyor.

44. The Excise Surveyor of the district shall, as often and at such time as he shall see fit (A), take, and keep an account, by way of debtor and creditor of the stock of rum and other spirits in the distillery of every distiller; and shall in such account credit such distiller with the full quantity of rum and other spirits, computed at hydrometer proof, which shall be from time to time duly conveyed into such stock, and shall debit such stock with the full quantity of rum and other spirits computed at hydrometer proof, which shall be from time to time sent out of such stock under legal permit; and if at any time the quantity of such rum and other spirits which shall be found in the stock or possession of any such distiller shall be greater than the quantity of rum or other spirits which by the stock account so kept by such distiller ought to be in the stock or possession of such distiller, all quantity in excess of rum or other spirits shall be forfeited, and may be seized by such Excise Surveyor; and every such distiller shall forfeit the sum of ten shillings for each and every gallon of such excess of quantity: and if at any time the quantity of such spirits in the stock or possession of any distiller shall be less than the quantity which, by the stock account of such distiller ought to be in the stock or possession of such distiller, every such distiller shall forfeit the sum of twenty shillings for every gallon of such spirits which shall be so deficient: [Proviso repealed by Law No. 24, 1888]. Excise Surveyor to keep an account of spirits of each distillery.

45. No methylation of spirits shall take place without the special permission in writing of the [Resident Magistrate (B)] first had and obtained; such permission to be granted by such [Resident Magistrate] upon and subject to such regulations as the Lieutenant Governor may make and issue in that behalf; and in the event of spirits being so methylated by such permission and under such rules, the spirits so methylated shall thereupon become exempt from duty under this Law, but shall nevertheless be in other respects subject to the like conditions as to removal and otherwise as spirituous liquors. Methylation of spirits, special permission necessary.

46. Every dealer in and retailer of rum or other spirits shall make true and particular entry in writing of his name and place of abode, and of every building, yard, or place by such dealer or retailer intended to be used for the selling, retailing, storing, or keeping of rum or other spirits with the Excise Surveyor of the district or circuit within which such building, yard, or place may be situated; and if any such dealer or retailer shall sell, store, keep, or have in any building, place, or yard, any rum or other spirits, without having made such true and particular entry in writing of such building, place, or yard, every such dealer or retailer so offending shall forfeit the sum of twenty-five pounds for every such building, place, or yard; and all the rum or other spirits, and the casks or vessels containing the Dealers in, and retailers of, spirits must enter their premises with Excise Surveyor.

(A) Law 8, 1892, s. 14, post, adds the words "or at such time as the Controller of Excise shall direct."

(B) The term "Controller of Excise" is substituted for the words in brackets by Law 24, 1888, s. 5, post.

Law 14, 1868. same, which may be found in such building, yard, or place shall be forfeited, and may be seized by any Excise Surveyor or officer of Customs; and for the purposes of this Law every person who shall have duly made such entry as aforesaid, and no other person whosoever, shall be taken to be a licensed dealer in spirits, or licensed retailer of spirits, as the case may be.

Dealers in, and
retailers of,
spirits, to keep
books.

47. (A) Every dealer in and retailer of spirits respectively shall provide himself with a book prepared according to a pattern to be given to him on his application to the [Receiver General], and shall on the same day on which he receives any spirits into his stock or possession, and at such time on that day as he may be requested to do so by any Excise officer, and if not so requested, then at latest before the expiration of that day, write and enter in such book, and in the proper columns respectively prepared for the purpose, the date when, and the Christian and surname of the person, or the name of the firm from whom, and from what place the spirits were received, the number of gallons, and the kind or quality of the spirits and the strength thereof; and every dealer shall also on the same day on which he shall send out of his stock or possession any spirits requiring a certificate as hereinafter mentioned, and at such time on that day as he may be requested as aforesaid, and if not so requested then at latest before the expiration of that day, write and enter in like manner in the said book the day when, and the Christian and surname of the person or the name of the firm, and to what place, to whom such spirits were sent, the quantity and the kind or quality of such spirits and the strength thereof, and also the number of gallons and the fractions of a gallon at proof; and every such book shall be at all times kept in some public and open place of the entered premises of the dealer or retailer for the inspection of the Excise officers; and any Excise officer may examine such book and take any extract therefrom; and every such book, after it has been filled up as aforesaid, shall be preserved by the dealer or retailer for a period of not less than twelve months, and during such time shall be produced by him to every Excise officer demanding the same; and if any dealer or retailer shall refuse or neglect to provide such book, or to make due entries therein as aforesaid, or shall cancel, alter, obliterate or destroy any part of such book, or any entry therein, or make any false entry therein, or hinder or obstruct any officer from or in examining such book or making any minute therein or taking any extract therefrom, or if such book shall not be preserved or not produced by the dealer or retailer as hereinbefore directed, such dealer or retailer offending herein shall forfeit the sum of fifty pounds.

Certificate book.

48. (B) A certificate book, prepared with proper printed forms for the purposes hereinafter mentioned shall be delivered by the [Receiver General] to every dealer who shall request the same in writing of such [Receiver General], and every dealer, on receipt of such book, shall acknowledge the same in writing under such request, or as the [Receiver General] may direct; and no spirits whatever shall be sold, sent out, or delivered from the stock or possession of any dealer without a certificate filled up and cut out progressively from the printed forms contained in such book, and signed by the dealer or by some person on his behalf, with the addition to his signature of his occupation, certifying the person from whom, the place from whence, and the day and hour of the day when the spirits are sent out or delivered, the number of casks or other packages in which the same are sent out, the quantity and kind or quality and strength thereof, the Christian

(A) See Act 32, 1895, s. 13, post. See also note to sec. 11, ante.

(B) See Act 32, 1895, s. 13, post. See also note to sec. 11, ante.

Law 14, 1868.

and surname of the person or the name of the firm to whom sold, and the place to which, and the conveyance by which the same are to be sent; and every dealer, before such certificate is cut from its counterpart, shall make a corresponding entry in such counterpart of the same particulars as are stated in the certificate; and such certificate shall accompany the spirits on the removal thereof, and shall be delivered to the person to whom the spirits are sold, sent out, or delivered; and every dealer shall keep the said certificate-book in some public and open part of his entered premises for the inspection of the Excise officers; and when such certificate-book is completely used by filling up the same as aforesaid, or when demanded by the Excise officer, the dealer shall return the same to the [Receiver General], who shall give a receipt for the same, and, if requested as aforesaid, shall thereupon deliver to him a new certificate-book, to be acknowledged and kept by him as aforesaid; and every dealer who shall sell, send out, or deliver any spirits without such certificate as aforesaid, and every dealer who shall not make a corresponding entry in the counterpart of such certificate as aforesaid, or who shall not keep or return such book as aforesaid, or who shall hinder or obstruct any officer in examining such book or making any minute therein or extract therefrom, or who shall cancel, alter, or obliterate or destroy any part of such book or any entry therein, or who shall make any false entry therein, shall forfeit the sum of fifty pounds; and all spirits sent out or delivered as aforesaid without such certificate shall also be forfeited; but the said penalty or forfeiture shall not be incurred by reason of the strength of the spirits not agreeing with the certificate accompanying the same if the strength thereof is not more than one per centum above or two per centum below that expressed in the certificate.

49. If any dealer shall cut, or separate any such certificate or form of certificate from its counterpart except on the occasion of his sending out spirits from his stock, and for the purpose of the certificate, properly filled up, accompanying such spirits, or if any dealer shall cut or separate any certificate or form of certificate from its counterpart without first filling up the certificate or form with the several particulars and according to the directions herein in that behalf mentioned, he shall forfeit the sum of fifty pounds; and upon the hearing of any information or trial for the recovery of such penalty, and upon any appeal in relation thereto, proof of the non-entry by the dealer upon the counterpart of any certificate or form cut or separated therefrom of the particulars required by law to be entered upon such certificate and counterpart respectively on the occasion of his sending out spirits, shall be sufficient evidence that the certificate or form was cut and separated by him from its counterpart not upon the occasion of his sending out spirits from his stock and for the purpose of such certificate properly filled up accompanying such spirits, and the dealer shall be convicted of such offence accordingly.

Penalty for cutting out certificates without sending out spirits.

50. If any dealer shall fill up and cut out from any certificate-book delivered to him, any certificate as for the removal of spirits from his own stock, and use such certificate, or cause or suffer the same to be used for any other purpose than to accompany the actual removal and delivery of the spirits therein expressed, or shall deliver or part with, to any person whatever, any certificate, or form of certificate, cut out from such book as aforesaid, although not filled up, or if any dealer, or other person, shall use any certificate, or form of certificate, whether filled up or not, so that the account of spirits kept or checked by any officer, or any examination of spirits by any officer is or may be frustrated or evaded, such dealer or other person so offending shall forfeit the sum of fifty pounds, and every person having a license

Penalty for improper use of certificates.

Law 14, 1868. to deal in spirits, shall, upon being convicted of any such offence as aforesaid, forfeit such license, and no new license shall be granted to such person so convicted, for the remainder of the current year of any license so forfeited.

Penalty for receiving or buying spirits contrary to provisions of this Law.

51. Any dealer in or retailer of rum or other spirits or any person in the employment of such dealer or retailer, or any other person who shall receive or buy any spirits from any person or persons whomsoever, except from some person licensed to use a still under this Law, or from some licensed dealer in or retailer of spirits, or at some public sale of spirits condemned and sold under the directions of the [Receiver General (A)], and any person who shall receive or buy from any distiller any quantity of rum less than fifteen gallons contained in one cask, shall for every such offence forfeit the sum of one hundred pounds: Provided always, nevertheless, that no person shall be liable to such last-mentioned penalty for or by reason of the receipt of any British or Colonial or Foreign spirits legally imported into this Colony, and in respect whereof the duties of import shall have been duly paid; but in every case where any question shall arise whether such spirits have been legally imported into this Colony, or whether the duties of import on the same have been duly paid and satisfied, the burthen of proving the same shall be on the person in whose possession such spirits shall be found.

Power of officers to enter premises, and gauge, taste, &c.

52. It shall and may be lawful for every Excise Surveyor within his district or circuit, and every officer of Customs, from time to time, and at all times in the day time after request, to enter into any house, warehouse, storehouse, room, shop, cellar, vault or other place, made use of by any dealer in or retailer of spirits for the laying or keeping of any spirits, and by tasting, gauging, or otherwise, to take an account of the quantity and quality and strength respectively of all or any such spirits which shall be in the custody or possession of such dealer or retailer, and to take at any time or times a sample or samples of any such spirits, paying for the same the usual price thereof if demanded.

Excise Surveyor may remain on premises of distiller.

53. Any Excise Surveyor appointed under this Law may remain at and upon the premises of any distiller for such time as he may deem necessary, and during the time that any Excise Surveyor shall be residing at the premises of any distiller, the said distiller or person in charge of such distillery shall each day produce to the Excise Surveyor for his subscription thereto the day-book belonging to such distillery, and if required by said Excise Surveyor shall deliver such day-book into the custody of such Excise Surveyor.

Taking quantity and strength of stock of dealer or retailer.

54. Every Excise Surveyor and officer of Customs shall and may, as often and at such times as he may think fit, take an accurate and true account of the quantity and strength of all rum and other spirits in the stock, custody, or possession of every dealer in or retailer of spirits, and shall compute the same at the strength of hydrometer proof, and if, after making allowance for the rum and other spirits for which permits or certificates shall have been granted since the last account taken of the stock of such dealer or retailer, computing the same at the strength aforesaid, it shall be found that the quantity of spirits remaining in the stock, custody, or possession of such dealer or retailer shall exceed the quantity which such dealer or retailer ought to have on hand, according to the books or account of the Excise Surveyor of the circuit or district, whether such excess shall have arisen from what was on hand at the last preceding account taken, or from what may have been legally received subsequent thereto, such excess shall be deemed and taken to be spirits illegally received, and

(A) See note to sec. 11, ante.

a quantity of spirits of the like kind equal to such excess shall and may be seized out of any part of the stock of such retailer or dealer by any Excise Surveyor or officer of Customs, and the dealer or retailer in whose stock, custody, or possession such excess shall be found shall forfeit the sum of ten shillings for every gallon of such excess. Law 14, 1868.

55. If any dealer in or retailer of spirits, or any other person, shall send out, deliver, or remove from, or shall receive into his stock, custody, or possession, any rum or other spirits, which require to be accompanied by a permit or certificate, without the same being accompanied by a permit or certificate, or if any carrier, boatman, or other person shall, knowingly, carry, remove, transport, or, by means of his horse, cattle, cart, wagon, vessel, boat, or other conveyance whatever, shall knowingly suffer to be carried, removed, or transported, or shall be aiding or assisting in carrying, removing, or transporting from any part of this Colony to any other part thereof any rum or other spirits which by law ought and are required to be accompanied with a permit or certificate, without being accompanied with such permit or certificate in that behalf, every such dealer, retailer, carrier, boatman, or other person whosever, shall for each and every such offence forfeit and pay the sum of one hundred pounds sterling over and above every other penalty and forfeiture to which he is or may be liable, by virtue of this Law, and all such rum or other spirits, and the packages or vessels in which the same shall be contained, and every such horse, cart, wagon, vessel, boat, and other conveyance, and all such cattle, shall be forfeited and may be seized by any Excise Surveyor or officer of Customs. Penalty for removing, carrying, &c., of spirits without permit or certificate.

56. No dealer in, or retailer of spirits, shall have credit in stock for any greater quantity of spirits received or found in his stock than for the quantity computed at proof, brought in by, and expressed in, the permit or permits, or certificate or certificates accompanying such spirits, and delivered to the proper officer. Dealer or retailer not to have credit for more spirits than appear by certificate.

57. It shall and may be lawful for any Excise Surveyor or officer of Customs to stop and detain any person whom he shall reasonably suppose to be removing or carrying any spirits of any kind, and to search and examine any package of whatever description which he shall reasonably suppose to contain any spirits, and to demand the production of the permit or permits, or certificate or certificates accompanying such spirits, and on being satisfied that the spirits are the same in quantity, quality, sort, or kind, and strength, as expressed in such permit or certificate, such Excise Surveyor or officer shall endorse on such permit or certificate, the day, hour, and place of such examination, and shall sign his name thereto, and if any person who shall be found removing or carrying any such spirits which are by law required to be accompanied with a permit or certificate, shall refuse to produce such permit or certificate immediately on being required so to do by any Excise Surveyor or Officer of Customs, or shall be found removing or carrying any such spirits without a lawful permit or certificate, every such person shall, for every such offence, forfeit the sum of twenty-five pounds, and it shall be lawful for every such Excise Surveyor or Officer of Customs, and he is hereby authorised, empowered, and required to stop, arrest, and detain every such person, and to convey every such person, together with the spirits so being removed or carried by or with him, to the nearest Resident Magistrate, and such Magistrate is hereby required, and shall have full power and authority to hear and determine forthwith any information against any such person so stopped or arrested under the provisions of this Law, and on the confession of any such person, or upon proof on oath by one or more credible witness or witnesses, to convict such person in such penalty as aforesaid; and no such penalty shall be mitigated by such Magistrate. Excise Surveyors, &c. may detain persons wrongfully conveying spirits.

Law 14, 1868. below one-fourth part thereof, and every such person so convicted as aforesaid shall immediately on such conviction pay down into the hands of such Magistrate the said penalty in which he shall be so convicted; and if any such person so convicted shall not forthwith pay down the said penalty, the said Magistrate shall, and he is hereby authorised and required by warrant under his hand, to adjudge the person so convicted as aforesaid to be imprisoned in the common gaol of his county or division, with or without hard labour, for any time not exceeding three months, unless such penalty be sooner paid.

Provisions for facilitating taking account of stock of dealers and retailers.

58. And for enabling the Excise Surveyors and officers of Customs the more readily to take account of the stock of spirits of dealers and retailers: Be it further enacted, that all standing or fixed casks used by any dealer in or retailer of spirits, for the keeping in stock of any spirits, shall, before the same be made use of, be duly entered by such dealers and retailers respectively, with the Excise Surveyor of the district, upon pain of forfeiture by the person or persons in whose stock the same shall be found of the sum of twenty-five pounds for every such cask which shall have been so used without having been duly entered as aforesaid, and also of every such cask with the liquor contained therein, and upon every such cask used by any such dealer in or retailer of spirits, for holding or keeping any spirits in stock, such distinguishing number as shall be directed by the Excise Surveyor of the district, its full measure in gallons, or the quantity of liquor it is capable of containing, and also the name of the quality, sort, or kind of spirits kept or contained therein, shall be legibly painted, cut, or branded on some conspicuous part thereof, upon pain that the dealer or retailer in whose custody or possession any cask so used shall be found, not having such full measure thereof, and such particulars as aforesaid painted, cut, or branded thereon as aforesaid, or containing a different quality, sort, or kind of spirits from what shall be painted, cut, or branded thereon as aforesaid, shall forfeit the sum of twenty-five pounds for every such default, omission, or offence, as aforesaid.

Provisions for removal of spirits from stock of distiller or dealer to stock of retailer.

59. For every cask of rum or other spirits removed, delivered, or received from the stock of any distiller or dealer in spirits, to the stock of any retailer of spirits, a separate and distinct permit or certificate shall be granted, which permit or certificate shall, before the removal of such cask, be pasted or glued upon one of the ends of such casks, in such manner that the number and marks mentioned in such permit or certificate may be read and compared with the number and marks marked, painted, or branded on such cask; and if any rum or other spirits shall be removed from the stock of any distiller or dealer, for the purpose of being received into the stock of any retailer of spirits, or shall be received into the stock of any retailer of spirits without having such permit or certificate pasted or glued upon such cask in the manner hereinbefore directed, such rum or other spirits shall be forfeited, and may be seized by any Excise Surveyor or officer of Customs, and every such distiller, dealer, or retailer so offending, shall for every such offence forfeit the sum of twenty-five pounds.

No retailer to be a distiller or be concerned in trade of distiller.

60. No retailer of spirits shall be a distiller of spirits, or be in any manner interested or concerned in the trade or business of a distiller of spirits, and if any such retailer shall be a distiller of spirits, or shall have any part or share in any distillery, or be in any manner interested or concerned in the trade or business of a distiller of spirits, such retailer shall for every such offence forfeit and lose the sum of one hundred pounds.

Penalty for selling spirits to be unlawfully retailed or consumed.

61. If any person shall knowingly sell or deliver, or cause to be sold or delivered, directly or indirectly, any quantity of rum or other spirits to any other person, to the end that the same may be unlawfully

retailed or consumed in any part of this Colony, such person so offending shall for every such offence forfeit over and above all other penalties, the sum of one hundred pounds. Law 14, 1868.

62. If any person shall knowingly receive, buy, or have in his custody or possession any rum or other spirits removed from the place where the same ought to have been charged and paid with the duty payable in respect thereof, before the duty to which the same shall be liable has been charged and paid, or before such rum or other spirits have been lawfully condemned as forfeited, the person offending therein, whether he had or had not, or do or do not claim or pretend to have any interest or property therein, shall for every such offence forfeit the sum of fifty pounds, and also the spirits so received, bought, or had in his custody or possession. Penalty for receiving spirits on which duty has not been charged and paid.

63. The several entries, notices, declarations, books, accounts, returns, request-notes, certificates, and permits required or directed by this Law, shall and may be in such respective forms as the [Receiver General (A)] may from time to time direct, and it shall not be necessary to prove on the trial of any complaint or information, or in any other proceeding for any offence against this Law, the particular order or direction of the [Receiver General] in that behalf. Forms of entries, notices, &c.

64. It shall not be lawful for any person or persons to bring into this Colony overland any spirits whatsoever, in any quantity exceeding two gallons at any one time, except with the permission in writing of the [Receiver General] first had and obtained; and any spirits so brought into this Colony overland without such permission in writing, shall be forfeited, together with the casks or vessels containing such spirits, and the person or persons so offending, and the person or persons found in custody or possession of such spirits, shall on conviction thereof before a competent Court, each be liable to a fine not exceeding twenty-five pounds, or, in default of payment of such fine, to imprisonment with or without hard labour for any term not exceeding one year, as to such court shall seem fit: Provided that nothing in this clause contained shall apply to spirits upon which duty has been paid in Natal. Introduction of spirits into Colony overland.

65. On the commission of any offence under this Law, either of the offending parties who shall first discover and inform against the other or others of such offending parties before any information has been lodged against such informing party for such offence, shall, upon conviction of the person or persons against whom such information shall be given, be discharged and acquitted from all penalties to which at the time of such information given, such informing party might have been liable for, or, by reason of any such offence, committed by such informing party, and the evidence of such informing party shall on any trial at law touching such offence be admitted to prove the facts thereof or relating thereto. Offenders first informing to be indemnified.

66. If any person shall, armed with a gun, pistol, sword, or pike, or in any violent manner with staves, or stones, or any other instrument, rescue any offender arrested, or any goods or chattels seized under this Law, or shall prevent such arrest or seizure, or shall assault, beat, or wound any Excise Surveyor or officer of Customs, or police constable, or other officer or person acting in their aid or assistance, or any person who shall have given, or be about to give any information against, or shall have discovered or given evidence against, or be about to discover, or give evidence against, or shall seize, or bring to justice any person offending against this Law, or who shall have seized or be about to seize or examine any goods or chattels forfeited under this Law, or shall forcibly oppose the execution of any of the powers given Penalty for wrongful rescue.

(A) See note to sec. 11, ante.

Law 14, 1868. by this Law, or who, being armed or with such violence as aforesaid, shall offer or threaten to do so, then every person so offending, and his aiders and abettors thereof lawfully convicted, shall, on conviction thereof before a competent Court, be liable to imprisonment, with or without hard labour, for such term, not exceeding four years, as to the Court by and before whom they shall be convicted shall seem fit.

Penalty on constables not aiding.

67. If any constable shall refuse or neglect, upon due notice or request, or on his own view, to be aiding and assisting, or to proceed as aforesaid in the execution of this Law, such constable being thereof convicted by the oath of one or more credible witness or witnesses before the Resident Magistrate for the county or division where such offence shall be committed, shall forfeit for every such offence the sum of ten pounds, and in default of immediate payment thereof, shall be committed to imprisonment, with or without hard labour, for any term not exceeding three calendar months, as to such Resident Magistrate shall seem fit.

Penalty on malversation of Excise Surveyors and officers of Customs.

68. If any Excise Surveyor or officer of Customs, or other person employed in the execution of this Law, shall directly or indirectly ask or demand, or take or receive any sum of money or other recompense or reward whatsoever, or any security for any sum of money, or other recompense or reward, or acquiesce in, or make, or enter into any collusive agreement with any person to do, conceal, or connive at any act or thing whereby any of the provisions of this Law shall or may be evaded or broken, or Her Majesty's revenue defrauded, or to do or perform, or permit or suffer to be done or performed any act or thing whatsoever, contrary to the duty of such Excise Surveyor or officer of Customs, or persons so employed as aforesaid, every such Excise Surveyor, officer of Customs, or person so employed, offending as aforesaid, shall for each and every such offence forfeit the sum of one hundred pounds, and being thereof duly convicted, shall be incapable of thereafter serving Her Majesty in any office or employment whatsoever in this Colony; and every person who shall, directly or indirectly, give or offer, or promise to give to any Excise Surveyor, Officer of Customs, or other person so employed as aforesaid, any sum of money or other recompense or reward whatsoever, or shall propose, make, or enter into any collusive agreement with any Excise Surveyor, Officer of Customs, or person so employed as last aforesaid, to do, conceal, or connive at any act or thing, whereby any of the provisions of this Law shall or may be evaded or broken, or Her Majesty's revenue defrauded, or to do or perform any act or thing whatsoever, contrary to the duty of such Excise Surveyor, Officer of Customs, or person so employed as aforesaid, or to neglect or omit to do or perform any act or thing whatever belonging or appertaining to the business or duty of such Excise Surveyor, Officer of Customs, or person so employed as aforesaid, shall for each and every such offence, whether such sum of money or other reward or promise of, or security for the same or such agreement be received, accepted, entered into, performed or not, forfeit the sum of one hundred pounds: Provided always that in case any such Excise Surveyor, Officer of Customs, or person so employed as aforesaid, who shall have, directly or indirectly, asked or demanded or taken or received any such sum of money or other recompense or reward, or any promise of or security for the same, or acquiesced or made or entered into any such collusive agreement, shall, before any complaint shall have been made or any proceedings had against him for having committed any such offence as aforesaid, give information of the gift, offer, or promise to give such sum of money or other recompense or reward or security for the same, or of such collusive agreement proposed or made or entered into, and proceedings thereon shall be thought fit to be instituted so that such penalty as aforesaid

shall be recovered against the person who shall have, directly or indirectly, given or offered or promised to give any such sum of money or other recompense or reward or security for the same; or in case the person who shall have directly or indirectly given or offered or promised to give any such sum of money or other recompense or reward or security for the same, or shall have proposed or made or entered into any such collusive agreement shall, before any complaint shall have been made or any proceedings had against him for having committed any such offence, give information of the asking or demanding, or of the taking or receiving, any such sum of money or other recompense or reward or promise of or security for the same, or of such collusive agreement acquiesced in or entered into by any Excise Surveyor, Officer of Customs, or person so employed as aforesaid, and proceedings shall thereon be thought fit to be instituted, so that such penalty as aforesaid shall be recovered against such Excise Surveyor, Officer of Customs, or person so employed and offending as aforesaid, then and in either of the said cases either of the said parties so first giving such information shall be exempted from and indemnified against the penalties and disabilities imposed on such party for such offence against this Law.

69. If any distiller of, or any dealer in rum or other spirits, or any workman or servant belonging to, or employed or authorised by such distiller, dealer, or retailer, or if any other person shall molest, hinder, oppose, or obstruct any Excise Surveyor, officer of Customs, or police constable, or any person acting in their aid or assistance in the due execution of the powers and authorities by this Law granted, or any of them, every such distiller, dealer, or retailer, or other person so offending, shall for every such offence forfeit the sum of twenty-five pounds.

Penalty for obstructing officer in execution of his powers.

70. Every act, matter, or thing required by this Law to be done or performed by the [Receiver General (A)], being done or performed by any sub-receiver, appointed by the Lieutenant Governor, within any county or division of the Colony for which any such sub-receiver may by the Lieutenant Governor be authorised to act, or by any Officer of Customs appointed by the [Receiver General] for such purpose, shall be deemed to be done or performed by the [Receiver General].

Acts of Receiver General.

71. Where, on any indictment, plaint, information, or proceeding for the recovery of any penalty or forfeiture under this Law, any question shall arise whether any person was or was not a duly licensed distiller at the time of committing the offence mentioned therein, a certificate purporting to be signed by the [Receiver General], that such person was or was not so duly licensed as aforesaid shall be obtained, and the same shall be sufficient proof of the fact stated in such certificate.

Proof of fact of person being licensed or not.

72. All penalties and forfeitures incurred and recovered under or by virtue of this Law, shall be distributed, one moiety thereof to Her Majesty, her heirs, and successors, for the uses of the Government of this Colony, and the other moiety to the Excise Surveyor, officer of Customs, or police constable, or other the person or persons who shall discover or inform of the same.

Application of penalties, &c.

73. Where any person shall be lawfully convicted of any offence against any of the provisions of this Law, and the pecuniary penalty imposed for such offence shall not be paid and cannot be levied, or the person incurring such penalty is not able to pay the same but in lieu thereof is sent to prison, it shall and may be lawful for the Governor to cause such reward as he shall think fit, not exceeding twenty-five pounds in each case, to be paid out of the Colonial Treasury to the Excise Surveyor or Officer of Customs or police constable, who shall have discovered or informed of such offence.

Award to informer where penalty cannot be levied.

(A) See note to sec. 11, ante.

Law 14, 1868.

Penalty for contraventions not specially provided for.

74. Every person who shall contravene any of the provisions of this Law, or any part thereof for which no provision has been specially made, shall, on conviction thereof, be subject to any penalty not exceeding fifty pounds, or, in the event of non-payment of any such penalty, to any period of imprisonment, either with or without hard labour, for any period not exceeding six months.

What to be deemed contraventions.

75. Every breach of this Law or any part thereof, or any act, matter, or thing required to be done and not so done under and in accordance with the provisions thereof or any of them, or any act, matter, or thing which is forbidden, or which when done would be contrary to the provisions of this Law or any one of them, or any proceeding which would be in any way in breach of the said Law or any part thereof, shall be deemed and taken to be contraventions of the said Law and be indictable.

76. [Repealed by Law No. 8, 1892.]

Prosecutions in Magistrate's Court.

77. All contraventions of this Law which may under the foregoing section be prosecuted before any Magistrate's Court, may be tried and prosecuted in the Court of any Resident Magistrate in the county or division in which any still may be found erected, or through which or through part of which any such still or any spirits shall have been conveyed.

Recognizances may be sued upon for provisional sentence, on breach of conditions, whether the principal be present or absent from Colony.

78. The recognizance and bond of any person as required and provided by this Law, shall be considered due and to be a liquid document of debt due to the Queen by such surety, and proper for granting of a provisional sentence in every case in which there shall be shown any single breach of the conditions thereof by the principal, either within the Colony or beyond the boundaries, 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 the amount may be levied on the goods and chattels of such security within the Colony.

Limitation of actions on account of things done under this Law.

79. 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 Law, such action or suit shall be commenced within three calendar months next after the alleged cause of action shall accrue; and the defendant or defendants in such action may plead the general issue, and thereunder give the special matter in evidence on any trial to be had thereon, and prove the same was done under the authority of this Law.

Governor may make rules.

80. It shall and may be lawful for the Lieutenant Governor, with the advice of his Executive Council, from time to time to frame, make, and issue, and the same to alter or amend as occasion may require, such rules and regulations as he may deem necessary for the better carrying out of this Law; and such rules and regulations shall, in so far as they are not repugnant to or inconsistent with the provisions of this Law, have the same force and effect as if they were herein inserted and set forth; and by such rules and regulations to impose any penalty not exceeding twenty-five pounds for any contravention thereof.

Interpretation.

81. The term "low wines," wherever it occurs in this Law, shall be taken to mean unfinished or uncoloured and unfiltered spirits, or samples drawn from low wine vats at twenty-five per centum under proof by Sykes' Hydrometer. The term "gallon" shall be taken to mean an Imperial gallon.

Commencement

82. This Law shall commence and take effect one month from the date of the promulgation thereof in the "GOVERNMENT GAZETTE"; and may, for all purposes of this Law, be cited as the "Excise Law, 1868" (A).

(A) Promulgated in G.G., dated Sept. 22, 1868.

SCHEDULE A.

Law 14, 1868.

[Repealed by Law No. 24, 1888.]

Schedules.

SCHEDULE B.

Form of Recognizance.

Before me, Resident
 Magistrate of , of
 on the , 18 day of , appeared
 A. B., residing at , and C. D. and
 E. F., of , who acknowledge
 themselves to be jointly and severally indebted to Our Sovereign Lady
 the Queen, her heirs and successors, in the sum of ~~one~~ hundred pounds
 sterling, to be levied upon their and each of their goods, chattels,
 and property, movable and immovable, upon condition that if
 to whom a license is about to be granted to distil
 spirituous liquors under the provisions of the Law No. 14 of 1868,
 shall well and truly observe and perform all the provisions of the
 laws now in force concerning the distillation, sale, and removal of
 spirits distilled in this Colony required to be observed and performed
 on his part as such licensed distiller, then this recognizance to be
 void, or else to remain in full force,

A. B.
 C. D.
 E. F.

Before me
 Resident Magistrate of the

Law No. 1, 1871.

“To amend Law No. 14, 1868, known as “Excise Law, 1868.”

[24th January, 1871.]

WHEREAS it is expedient to amend the Law No. 14, 1868, known
 as “Excise Law, 1868”:

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal,
 with the advice and consent of the Legislative Council thereof, as
 follows:—

1. No license shall be granted to or be held by any person or
 persons to have, keep, or make use of any still for making or distilling
 rum or other spirits on any plantation or premises, unless such person
 shall be in the actual possession as owner, trustee, or lessee, of the
 plantation or premises on which such still shall be situate.

Distillation
 license to be
 granted only to
 owner, trustee,
 or lessee of
 premises.

2. Where the owner, trustee, or lessee of any plantation or premises
 shall be absent from the Colony, the license to keep or make use of
 a still upon such plantation or premises may, on the application of
 any attorney or known agent of such owner, trustee, or lessee, be granted
 to and in the name of such attorney or known agent; and in such
 case, the person to whom such license shall be granted shall be deemed
 and taken to be the owner of such plantation or premises within the
 meaning of the said “Excise Law, 1868,” and of any rules and
 regulations thereunder, and of this Law; and the recognizance entered
 into by such attorney or known agent, shall be deemed to be the
 recognizance of his principal, and shall be enforceable against such
 principal as owner of the said plantation or premises, in the same
 manner as if he had personally executed said recognizance.

In case of
 owner, &c.,
 being an ab-
 sentee, license
 may be granted
 to attorney or
 known agent.

Law 1, 1871.

Upon surrender or expiration of license, the distiller's remaining stock may be required to be removed to public warehouse.

Requirements to be complied with upon the exportation of rum.

Allowance of drawback upon duty-paid spirits being exported.

Governor may frame rules.

3. In every case in which a license under the said "Excise Law, 1868," shall be surrendered to the Receiver General (A) in terms of the sixteenth section of the said Law, and in every case in which any such license shall expire and not be renewed within a certain time, to be prescribed by the rules and regulations which the Lieutenant Governor is empowered to make for carrying out the said Law, the person who held such license may, if the Lieutenant Governor shall see fit, be required upon such surrender or after the expiration of such time, to forward to any Public Warehouse the remaining stock of rum and other spirits in the distillery of such distiller.

4. In every case where rum or spirits shall be exported from the Colony, as provided for in section 34 of Law 14, 1868, due entry thereof shall be made at the Custom-house, in mode and manner prescribed by Ordinance 6, 1855 (sections 58 and 59) (B), and the Bill of Entry required by such Ordinance shall specify in detail marks, numbers, and contents of the casks containing rum or other spirits, with the proof strength thereof, as set forth in the written permission to export, granted by the [Collector of Customs (c)]; and it shall be incumbent upon any and every person to whom such written permission may have been granted—if and when so required by the Collector of Customs—to produce a Bill of Lading, or a receipt or acknowledgment signed by the master or person in charge of the ship or vessel by which the rum is to be exported, showing that the casks of rum or other spirits, as specified in the Bill of Entry and certified by the proper officer of Customs, had been actually received on board said ship or vessel, and any person offending against or not complying with the provisions of this section shall, for every offence, forfeit and pay a penalty of twenty-five pounds sterling.

5. When the owner of any rum or spirits on which the duties shall have been actually paid shall, within six months after such payments be desirous to export the same and to claim drawback of duties so paid thereon, he shall state his intention in the written application for the removal permit (required by Law No. 14, 1868, sec. 34), and shall also furnish to the Collector of Customs a certificate, to be obtained at the office to which the duty was paid, setting forth marks and contents of casks and date and particulars of such payment of duty; and on the due shipment and exportation of said rum or other spirits as hereinbefore provided, it shall be lawful for the Collector of Customs to certify such fact on the duty-paid certificate before mentioned, and thereupon the person shipping such rum or other spirits shall be allowed a drawback of such sum as shall be equal to the duty actually paid on such rum or other spirits, such drawback to be paid by the Colonial Treasurer, on warrant of the Lieutenant Governor: Provided always, that no such drawback shall be payable on quantities of rum or other spirits so exported less than fifteen gallons, nor unless the rum or other spirits be contained in the same packages on which the duty had originally been paid.

6. [This section is obsolete (D).]

7. It shall and may be lawful for the Lieutenant Governor, with the advice of the Executive Council, from time to time to frame, make, and issue, and to alter or amend, as occasion may require, such rules and regulations as he may deem necessary for the better carrying out of this Law, or for the better carrying out of this Law and of the said "Excise Law, 1868"; and such rules and regulations shall, in

(A) See note to Law 14, 1868, s. 16, ante.

(B) See now Act 13, 1899, ante.

(C) "Controller of Excise" is substituted for the words in brackets by

Law 24, 1888, s. 7, post.

(D) The effect of this sec. was to add a proviso to the now repealed sec. 8 of Law 14, 1868, ante.

so far as they are not repugnant to or inconsistent with the provisions of this Law, have the same force and effect as if they were herein inserted and set forth; and by such rules and regulations to impose any penalty not exceeding twenty-five pounds for any contravention thereof. Law 1, 1871.

8. The penalties under this Law, and under any rules or regulations which may be issued in virtue thereof, shall and may be prosecuted, sued for, and recovered in like manner and by such ways and means as any penalty of the like amount may be prosecuted, sued for, and recovered under the provisions and directions of the said "Excise Law, 1868." Penalties, how recovered.

9. The short title of this Law shall be the "Excise Law Amendment Law, 1871." Short title.

10. This Law shall commence and take effect from and after the promulgation thereof in the "GOVERNMENT GAZETTE"; and this Law shall be construed together with the Law No. 14, 1868 (A). Commencement

Law No. 36, 1874.

"To amend Law No. 14, 1868, entitled 'Law to amend the Law as to the Distillation of Spirituous Liquors.'"

[24th November, 1874.]

WHEREAS it is expedient to amend the Law No. 14, 1868, entitled "Law to amend the Law as to the Distillation of Spirituous Liquors":

BE IT THEREFORE ENACTED by the Lieutenant Governor of the Colony of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

1. The Section numbered eight of the said recited Law No. 14, 1868, shall be and the same is hereby repealed. Repeal.

2. This Law shall come into operation upon the promulgation thereof in the "GOVERNMENT GAZETTE" after the passing thereof (B). Commencement

Law No. 17, 1878.

"To amend and explain the meaning of certain words used in the Law No. 14, 1868, and other Laws as to the Distillation of Spirituous Liquors."

[9th September, 1878.]

WHEREAS it is expedient to amend and explain certain words occurring in the laws now existing in regard to the Distillation of Spirituous Liquors:

BE IT THEREFORE ENACTED by the Lieutenant Governor of Natal, with the advice and consent of the Legislative Council thereof, as follows:—

1. The words "spirits," or "other spirits," occurring in any of the sections of the Excise Laws of the Colony, shall be construed to mean and relate only to spirits manufactured or distilled within the Colony, and not to spirits imported into the Colony. Definition of "spirits," and "other spirits."

2. This Law shall be read and construed together with the Laws No. 14, 1868, No. 1, 1871, No. 36, 1874, and No. 14, 1876, as one Law. Construction.

3. This Law shall commence and take effect from and after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE" (C). Commencement

(A) Feb. 7, 1871.

(B) Dec. 1, 1874.

(C) Nov. 19, 1878.

Law No. 24, 1888.

“To amend and Extend in Certain Respects the Excise Laws.”

[12th November, 1888.]

WHEREAS in order to secure the more effectual working of the Excise Laws of this Colony it is expedient to amend certain Sections of the “Excise Law, 1868,” and Law No. 1, 1871, known as the “Excise Law Amendment Law, 1871.”

AND WHEREAS no provision is made in the existing Excise Laws for granting licenses for the rectifying and compounding of spirits in the Colony; and whereas it is expedient to provide for the issuing of such licenses, and for bringing the same under the provisions of the Excise Laws:

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

1. The proviso at the end of Section 19 of the “Excise Law, 1868,” as follows: “Provided always, the obligation imposed by this section shall devolve upon, and be carried into effect and discharged by the officer placed in charge of any distillery, where fit and proper rooms or lodgings and stable are provided by the distiller for the use of such officer,” shall be and the same is hereby repealed.

2. Section 33 of the “Excise Law, 1868,” is hereby repealed, and the following substituted therefor:—“Upon the delivery from any public, or from any private warehouse under revenue lock, of any cask of spirits warehoused, the Excise Surveyor may allow and deduct from the quantity computed at hydrometer proof as originally warehoused, as an allowance for any deficiency which may have arisen from any natural waste, the following rates for every hundred gallons of such spirits, that is to say: Where the same shall have been in warehouse for any period less than one month, 2 per cent.; one month, and less than two months, 3 per cent.; two months, and less than six months, 4 per cent.; six months, and less than one year, 5 per cent.; for every six months, and any fractional part of six months, above one year and up to four years, 1 per cent.; and for every six months, and any fractional part of six months, above four years and up to six years, one-half per cent.; and no allowance shall be made for any deficiency which may arise in such spirits after the same shall have been six years in warehouse.

3. Wherever in Section 34 of the “Excise Law, 1868,” the term “Collector of Customs” is used, the term “Controller of Excise” shall henceforth be deemed to be substituted.

4. The proviso at the end of Section 44 of the “Excise Law, 1868,” is hereby repealed, and the following substituted therefor:—“Provided always, that no such distiller shall be liable to such last-mentioned penalties in any case where such excess or decrease shall not exceed two per centum on the quantity of spirits formed by the balance left on the last stocktaking, and the quantity since duly brought into stock by the spirit receiver, if such last stocktaking be no further distant than one calendar month, or three per centum if more than one calendar month; or if such distiller shall prove to the satisfaction of the Controller of Excise that such decrease did not result from any fraud practised or intended.

5. The term “Controller of Excise” shall henceforth be deemed to be substituted for the term “Resident Magistrate” wherever occurring in Section 45 of the “Excise Law, 1868.”

6. From and after the passing of this Law the following schedule shall be deemed to be substituted for Schedule A at the end of the “Excise Law, 1868”:—

Repeal of part of sec. 19, Law 14, 1868.

Repeal.

Deduction for waste.

Substitution for term “Collector of Customs” in sec. 34, Law 14, 1868.

Repeal of part of sec. 44, Law 14, 1868.

Substitution for term “Resident Magistrate” in sec. 45, Law 14, 1868.

Substitution for Sched. A of Law 14, 1868.

SCHEDULE A.

Law 24, 1888.

[Law No. 14, 1868.]

Schedule.

License is hereby granted to
 * _____, residing at
 to use _____ Still in distilling Spirituous Liquors
 at _____, County of _____, and titled
 Distillery, to be in force from the date hereof until the
 day of _____, 18____, and no longer.

Resident Magistrate.

Resident Magistrate's Office,
 18

* Proprietor, Trustee, Lessee, or Manager, as the case may be.

7. Section 4 of Law No. 1, 1871, is hereby amended by the substitution of the "Controller of Excise" for the "Collector of Customs" as the officer authorised to grant written permission to export rum or spirits from the Colony, as provided for in Section 34 of Law 14, 1868, and as amended by this Law.

Amendment of sec. 4, Law 1, 1871.

8. The Controller of Excise is hereby authorised and empowered to grant permission for the removal of spirits from one public warehouse to another public warehouse, under security of a sufficient bond to be approved by the said Controller of Excise and on payment of warehouse charges before removal of the spirits: Provided that any spirits so removed shall be accompanied by the permit required under Section 23, Law 14, 1868.

Permission may be granted for removal of spirits from one public warehouse to another under permit.

9. Wherever in the "Excise Law, 1868," the Resident Magistrate is specified as the officer empowered to sign permits for the removal of duty-paid spirits from any distillery, still-house, building, or other place within which the same were made or manufactured, rectified or compounded, or kept by any distiller of spirits, or for removal of any duty-paid spirits from any public warehouse in which the same shall have been warehoused, the provisions of such Law in respect of such permits shall be deemed to be complied with if the said permits be signed by the first clerk or other clerk duly authorised to sign permits, to the Resident Magistrate as and for the Resident Magistrate, while such Resident Magistrate shall be otherwise engaged in the performance of his other official duties on the Bench, or is absent from the seat of Magistracy: Provided that nothing in this section shall be deemed to take away from any Resident Magistrate any power vested in him under the provisions of the "Excise Law, 1868," in regard to the signing of such permits as aforesaid, nor exonerate him from any responsibility for the due and proper performance of this duty.

In certain cases, first or other clerk to a Magistrate may sign removal permits.

10. Sub-section (b) of Section 71 of "The Municipal Corporations Law, 1872," is hereby amended by expunging therefrom the words "and distillers of spirituous liquors" (A), and the power conferred on a Municipal Corporation by such Law, or on any Local Board established under the provisions of Law 11 of 1881, to issue licenses to distillers of spirituous liquors under the Laws cited in said Laws shall be and the same is hereby transferred to the Resident Magistrate of the borough or division within the limits of which the distillery is situated for which such license is required: Provided also that all and singular the powers vested in a Municipal Corporation under Law 19, 1872, or in any Local Board established under the aforesaid Law No. 11 of 1881, regarding the making of regulations with respect to licenses

Amendment of sec. 71, sub-sec. b, Law 19, 1872,

Power of Corporations and Local Boards to issue licenses to distillers, transferred to Magistrates.

Powers of Corporations and Local Boards to make regulations, &c., respecting licenses to distillers, transferred to Governor.

(A) The sub-s. is now repealed by Act 38, 1896, tit. "INTOXICATING LIQUORS."

Law 24, 1888. granted to distillers of spirituous liquors, defining the nature thereof, and altering, increasing, or reducing the prices of such licenses (anything contained in such Municipal Corporations Law, 1872, or in the Management of Townships Law No. 11, 1881, or in any other Law or Ordinance affecting either of the same, to the contrary notwithstanding) are hereby transferred to the Governor of Natal: And provided further, that all contraventions of any Ordinance, Law, or Regulation affecting any such distiller's license as aforesaid shall be prosecuted in manner provided by the Excise Laws of this Colony, or the Rules and Regulations framed thereunder, and that the amounts accruing from such licenses and the penalties imposed for any contravention of any Ordinance, Law, or Regulation in force affecting any such distiller's license as aforesaid shall be paid into the Colonial Treasury and form part of the public revenue: Provided further, that it shall be lawful for the Controller of Excise or officer directed by him to enter any licensed premises within any borough or township for the purpose of examining and taking account of the stock of any wholesale or retail spirit dealer within any such borough or township.

Premises may be entered for inspection of stock.

License for rectification and compounding of spirits and for stills used therefor.

11. From and after the date at which this Law shall take effect, it shall not be lawful for any person to rectify or compound spirits or to have or use any still whatever for the purpose of rectifying or compounding of spirits without having obtained a license for that purpose, under the provisions of this Law; every such license shall specify the name or names of the person or persons to whom granted, the particular local situation of the premises to be used and capacity of the still in respect whereof such license shall be granted; and every such license shall take effect from a day to be named in such license, and shall continue in force until and upon the Thirty-first day of December next after the day of the commencement of such license, and no longer: Provided the co-owners of any premises, or persons in partnership, carrying on any one trade or business as rectifiers or compounders of spirits in one house or place, shall not be obliged to take out more than one such license in any one year; and no one license which shall be granted under the authority of this Law shall empower any person to whom the same shall be granted, to have or make use of any still, or to rectify or compound spirits in or upon any still or premises other than the still or premises mentioned in such license.

License to be granted by Magistrate on payment of £5 for each complete still.
Proviso.

12. Every license to rectify or compound spirits shall be granted and signed by the Resident Magistrate (A) of the Division or County in which the approved premises are situated, upon the payment of the sum of Five Pounds for each and every still used complete in all its parts: Provided that no such license as aforesaid shall be granted unless and until the person applying for the same shall have produced and lodged with the Resident Magistrate a certificate signed by the Controller of Excise setting forth that the buildings or premises within which it is proposed to rectify or compound spirits are of a suitable character for the purpose.

Bond on obtaining license.

13. Every person before obtaining a license to rectify or compound spirits shall, on each and every obtaining of such license, together with two sureties to be approved by the Resident Magistrate, enter into a bond, jointly and severally in the sum of One Hundred Pounds sterling, in such form of bond as the Controller of Excise may approve.

Surety.

14. In the event of any surety becoming, in the opinion of the Controller of Excise, insufficient from any cause, the said Controller of Excise shall give notice in writing to the Rectifier or Compounder

(A) The Controller of Excise now signs; see Act 32, 1895, s. 5, post.

to furnish another sufficient surety in his stead; and if this be not done within one calendar month after such notice, it shall be lawful for the Controller of Excise to cause any still on the premises of such Rectifier or Compounder to be placed under revenue lock and key, or other security, until such surety shall be furnished.

Law 24, 1888.

15. A license granted under this Law or any Law hereafter enacted, shall be transferable by the Controller of Excise to a successor to the business of the original licensee, or to the widow, agent, or trustee in the estate of a deceased holder of a license: Provided that every person or persons to whom a license shall be so transferred shall furnish the security under bond required by the provisions of this Law (Sections 13 and 14).

Transfer of license.

16. When the premises, for which a license to keep a still under this Law shall have been granted, are situated at a distance of one-quarter-of-a-mile or upwards from the limits of a Borough or Local Board, the Rectifier shall within three months after the Controller of Excise may request him so to do, provide a suitable house with requisite appurtenances for the use of the officer to be placed in charge of the licensed premises, conveniently situated and approved by the Controller of Excise at a cost not exceeding Twenty-five (A) Pounds per annum; and if the rectifier shall neglect, or refuse to provide such house or requisite appurtenances, or shall not keep them in proper repair, or shall interrupt or in any way interfere with such officer in the use of them, such rectifier shall incur a fine not exceeding Fifty Pounds.

When premises are situate a quarter-of-a-mile from limits of Borough or Local Board, house and appurtenances to be provided by officer in charge.

17. Every still for which a license shall be granted under this Law shall be under the supervision of the Excise Department, and it shall be lawful for the Controller of Excise to refuse the grant of a certificate for the issue of a renewal license to any Rectifier or Compounder who shall have been convicted before any competent tribunal of having illicitly rectified, compounded, removed, transported, or sold Colonial spirits or compounds; or for the issue of a new license to any person or for any premises in which he may think it inexpedient to allow such business to be carried on.

Stills to be under supervision of Excise Department.

18. Every person after obtaining a license under this Law must before receiving any spirits for rectifying or compounding make entry with the Controller, or other authorised officer, setting forth:

Particulars to be entered with Controller before receiving spirits for rectifying or compounding.

- (a) His full name and abode, and in the event of a firm, the full name and abode of each partner, the situation of the premises intended to be entered, and the name or style under which it is intended the business shall be carried on;
- (b) A true and particular description of every room, vessel, and utensil intended to be used on those premises for the purpose of his business, and the purposes for which every room, vessel, and utensil is intended to be used, or Colonial compounds and spirits kept and stored.
- (c) The number of gallons, Imperial measure, which every Still with its head is capable of holding.

If a rectifier or compounder makes any false entry, or uses or allows to be used any room, vessel, or utensil for any illicit or illegal purposes, he shall incur a fine not exceeding One Hundred Pounds.

Penalty for false entry.

19. Every person licensed under this Law shall, without delay, have legibly painted in letters at least two inches in height on or above the principal entrance door of his licensed premises his name and business, or the name of the firm or style under which the business

Conditions to be observed by holders of licenses.

(A) Altered to "thirty-six" by Act 32, 1895, s. 6, post.

Law 24, 1888. is to be carried on; and shall at his own expense, and to the satisfaction of the Controller of Excise—

- (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 measure, safe ladders, sufficient lights, and allow the use of the same by any officer for taking any account of spirits in his stock, or for ascertaining the contents of any still, vessel, or utensil in his premises.
- (d) Himself or servants render any necessary assistance to any officer when gauging, or ascertaining the contents of any still, vessel, or utensil, or taking account of the stock of spirits.
- (e) 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.

Penalty for contravention.

If any person contravenes any of the foregoing provisions of this section, or by himself or his servants annoy, molest, obstruct, or hinder any officer in taking any account or other performance of his duties, he shall incur a fine not exceeding One Hundred Pounds.

Premises not to be within a quarter-of-a-mile of certain other premises.

20. 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. If any person contravenes this section he shall incur a fine not exceeding One Hundred Pounds for every week during which the premises are so entered or used.

Rectifier not to carry on upon the premises certain businesses.

21. A rectifier keeping a still may not carry on upon his premises the business of a brewer of beer or a maker of sweets, vinegar, cider or perry, or a refiner of sugar, or a dealer in or a retailer of wine; nor carry on the business of a rectifier keeping a still upon premises communicating otherwise with any of the aforementioned businesses otherwise than by one open public street or carriage road. If any person contravenes any of the foregoing provisions of this section he shall incur a fine not exceeding One Hundred Pounds.

Nor to have in his possession certain things, nor to extract low wines except from duty paid spirits.

22. A rectifier keeping a still must 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 duty-paid spirits (A); nor have in his possession any spirits for which he has not received and delivered to the proper officer a permit or certificate, or any spirits except what 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 Two Hundred Pounds, or at the election of the Governor, of Ten Shillings for every gallon of wort wash, fermented liquor, or other materials, or of the low wines or spirits in respect of which the offence is committed.

Penalty.

Officer may take samples from stock or still.

23. The Controller of Excise or authorised officer may take a sample of any spirits or compounds from the stock of a 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 any wine or wash put into or mixed with low wines, fruits, or spirits,

(A) See Act 32, 1895, s. 7, post.

the rectifier shall, in addition to any other penalty, incur a fine not exceeding One Hundred Pounds.

Law 24, 1888.

24. None but duty-paid spirits shall be received into the premises or stock of a rectifier or compounder of spirits, or be used for rectifying or compounding on such premises (A); and such duty-paid spirits must be received direct from a distillery, Excise public warehouse or a Customs bonded warehouse, in not less quantity than fifteen liquid gallons; all such spirits so received must be accompanied by a proper permit or certificate. For any contravention of the provisions of this section the rectifier or compounder shall incur a fine not exceeding Fifty Pounds, and forfeit the spirits in respect of which the offence is committed.

Reception of spirits into premises or stock.

25. A rectifier or compounder must on receipt of any spirits give notice thereof in writing to the proper officer, and deliver to him the permit or certificate received with the spirits. Unless the proper officer neglects to attend within three hours after receiving the notice the rectifier or compounder must 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. If a rectifier or compounder contravenes this section he shall incur a fine not exceeding Fifty Pounds and forfeit the spirits in respect of which the offence is committed.

Notice to be given on receipt of spirits, and officer to attend within three hours and take account.

26. 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 of Excise may direct. If, on balancing the stock, any excess appears, a quantity of spirits computed at proof equal thereto shall be forfeited, and the rectifier or compounder shall incur a fine of Ten Shillings for every gallon of such excess. If, on balancing the stock, there is any deficiency not duly accounted for by spirits sent out with certificate and exceeding five per centum (B) on the balance struck when the account was last taken, together with the quantity since lawfully received, the rectifier or compounder shall incur a fine of Ten Shillings for every gallon of such deficiency.

Stock account of spirits, how to be kept.

27. For the purpose of taking the stock account, or other account, of spirits on the premises of a rectifier or compounder only such gauging instruments and hydrometer shall be used as may be supplied or approved by the Controller of Excise, and if any rectifier or compounder, or person in his employ, shall interfere with or wilfully injure any gauging instruments, hydrometers, locks, or other articles used by or under the authority of the Controller of Excise, such rectifier or compounder on whose premises any such offence may be committed shall defray the cost of all repairs and incur a fine not exceeding Fifty Pounds.

Gauging instruments and hydrometer to be approved by Controller.

28. A rectifier or compounder must not send out any spirits except Colonial compounds, or spirits of wine, and in not less quantity than five gallons; and all such spirits or compounds sent out from the premises of a rectifier or compounder must be accompanied by a certificate in form approved by the Controller of Excise. 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 shall be forfeited (c).

What spirits may be sent out and how.

(A) See Act 32, 1895, s. 8, post.

(B) Altered to six per cent. by Act 32, 1895, s. 9, post.

(C) Act 32, 1895, s. 11, adds a proviso as to sending out spirits methylated under bond.

Law 24, 1868.

Warehousing of compounded and rectified spirits.

29. A rectifier or compounder may, subject to existing provisions by law and regulations, warehouse in an Excise, public, or Customs bonded warehouse, for home consumption or exportation, Colonial compounds rectified or compounded by him from spirits on which duty has been paid, and not being liqueurs, or tinctures, or medicinal spirits (A):

- (a) He may so warehouse for exportation but not for home consumption spirits of wine rectified by him from spirits on which duty has been paid.
- (b) Colonial compounds so warehoused must be of a strength not exceeding eleven degrees overproof.
- (c) Colonial compounds and spirits of wine must be warehoused in casks of not less capacity than fifteen gallons, and each cask may either be full or on one gallon ullage (B).
- (d) All casks (c) warehoused in any one year from the same premises must be numbered consecutively, and have legibly cut, branded, or painted thereon with oil colours on each end thereof, said consecutive number, together with the name and place of business of the rectifier, the year in which warehoused, the capacity and content in gallons, the strength and denomination of spirits or compounds.
- (e) The rectifier must, before warehousing Colonial compounds or spirits, deliver to the proper officer in charge of such warehouse, and at least twenty-four hours before the time for warehousing, a warehousing entry specifying the full particulars of the casks (d) and their contents.

Amount and mode of determining drawback.

30. The amount of drawback to be paid, and the mode of determining such drawback, for Colonial compounds exported from any warehouse, shall be subject to such regulations and conditions as the Governor may approve and notify from time to time in the "GOVERNMENT GAZETTE."

Rectifier or compounder subject to certain provisions of Law 14, 1868.

31. A rectifier or compounder of spirits under this Law shall be amenable to the provisions and penalties specified in Sections 47, 48, 49, 50, 52, and 53 of Law No. 14, 1868, applying to spirit dealers and retailers, regarding the several observances and requirements of the said Law.

What shall be deemed spirits of wine and Colonial compounds.

32. For the purpose of this Law, spirits of wine shall be deemed and taken to be spirits at and exceeding forty-two degrees overproof according to Sykes' or other authorised Hydrometer, and Colonial compounds shall be deemed spirits produced by re-distillation and which have been distilled or mixed with the juice of any fruits, juniper berries, carraway seeds, aniseeds or any other seeds, preparation, ingredient, or flavouring materials whatever whereby the original character or denomination of the spirits has been altered.

Illicit rectification or compounding.

33. Any person rectifying or compounding spirits without a license, or on whose premises such illicit rectifying or compounding shall take place, shall be liable to a penalty not exceeding One Hundred Pounds, and all the spirits found on the premises shall be declared forfeited: Provided that nothing in this Law shall extend to or in any way interfere with licensed distillers of spirituous liquors under the provisions of Law No. 14, 1868.

Penalty for contravention of other provisions.

34. Any licensed rectifier or compounder contravening any of the provisions of this Law for which a special penalty has not already been provided, shall be liable to a penalty not exceeding Fifty Pounds.

(A) See Act 32, 1895, ss. 10 & 12.

(B) See words added by sec. 12, Act 32, 1895, post.

(C) See words added by sec. 12, Act 32, 1895, post.

(D) Act 33, 1895, s. 12, adds "or cases."

35. It shall and may be lawful for the Governor, with the advice of the Executive Council, from time to time to frame, make, and issue, and to alter or amend as occasion may require, such rules and regulations as he may deem necessary for the better carrying out of this Law, or for the better carrying out of this Law and of the said "Excise Law, 1868"; and such rules and regulations shall, in so far as they are not repugnant to, or inconsistent with, the provisions of this Law, have the same force and effect as if they were herein inserted and set forth; and by such rules and regulations to impose any penalty not exceeding Twenty-Five Pounds for any contravention thereof.

Law 24, 1888.
Governor may make rules and regulations.

36. The penalties under this Law, and under any rules or regulations which may be issued in virtue thereof, shall and may be prosecuted, sued for, and recovered in like manner and by such ways and means as any penalty of the like amount may be prosecuted, sued for, and recovered under the provisions and directions of the said "Excise Law, 1868."

Recovery of penalties.

37. The short title of this Law shall be the "Excise Law Amendment Law, 1888."

Short title.

38. Where not inconsistent with, or repugnant to, the provisions hereof, the "Excise Law, 1868," the "Excise Law Amendment Law, 1871," the Law No. 36, 1874, entitled "Law to amend Law No. 14, 1868, entitled 'Law to amend the Law as to the Distillation of Spirituous Liquors,'" and this Law shall be read together and construed as one Law.

Laws to be read as one with this Law.

39. This Law shall come into operation upon such date after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE," after the passing thereof, as shall be fixed by proclamation of His Excellency the Governor.

Commencement

Law No. 8, 1892.

"To amend the Law relating to Excise."

[29th June, 1892.]

WHEREAS to secure the more effectual working of the Excise Laws of this Colony it is expedient to amend in certain respects the Excise Law, 1868, to repeal and re-enact Law No. 14, 1876, entitled "Law to amend the Excise Law, 1868," and to repeal Law No. 3, 1889, entitled "Law to amend Law No. 14, 1876, entitled 'Law to amend the Excise Law, 1868.'"

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

1. The Laws specified in the Schedule of this Law are repealed to the extent specified in the third column of that Schedule. Such repeal shall not affect any appointment already made of any officer under the provisions of the Laws hereby repealed or amended, nor, save so far as they may be contrary to this Law, any regulations or proclamations made under the said Laws, but all such regulations and proclamations shall, save as aforesaid, continue and be of force and effect until otherwise altered or repealed.

Repeal of Laws.

2. The Governor may from time to time appoint a Controller of Excise, an Inspector, or Assistant Inspector of Distilleries, and such persons as he may think fit to be Excise Surveyors and Keepers of Public Warehouses, or Assistant Excise Surveyors and Keepers of Public Warehouses. The Controller of Excise and other officers aforesaid shall be entitled to receive such salary and allowances as may from time

Excise officers.

Law 8, 1892.

to time be voted by the Legislative Council. The collection of the duties imposed by this Law or any Law in force for the time being, shall be under the management of the Controller of Excise, who shall account for and pay over such duties to the Colonial Treasurer in such manner and at such times as the Governor may direct.

License required for keeping a still or distilling apparatus.

3.—(1) From and after the date on which this Law shall take effect, no person or persons shall have or keep in his or their custody or possession or on his or their premises or lands, any still or distilling apparatus, or portions of a still or distilling apparatus, without first obtaining a license from the Controller of Excise as hereinafter provided.

License duties.

(2) The license duty payable to the Controller of Excise shall be—
(a) For every still or apparatus or portions thereof merely kept and not used (A): One pound per annum. (b) For every still or apparatus used for distilling spirits: Five pounds per annum. No such still or apparatus shall be used until the aforesaid duty of Five Pounds shall have been paid.

Currency of license: how transferable.

(3) Every such license shall be dated on the day of issue, and shall expire on 31st December next following, and shall be transferable with the consent of the Controller of Excise.

License not to apply to certain stills.

(4) The said license shall not apply to private stills licensed under Sections 13 and 14 of Law No. 14, 1868 (B), nor to any still of less than five gallons capacity if used for experiments or any special purpose which the Controller of Excise shall authorise, with the approval of the Governor.

Punishment for contraventions of this section.

(5) For any contravention of any of the provisions of this section, the person or persons so contravening, or on whose premises or lands, or in whose custody or possession any still or apparatus shall be used or shall be in contravention of this section, shall be liable to a penalty not exceeding One Hundred Pounds, and every such still or distilling apparatus, or portions of a still or distilling apparatus, may be adjudged to be forfeited to Her Majesty.

Application for license.

4.—(1) Before a license is granted for any still or apparatus for distilling spirituous liquors, the owner, lessee, or legal agent or manager must furnish an application in writing, stating the kind of still to be used, the capacity thereof, and the name of the farm or estate on which it is intended to be used, together with the certificate of an Excise Surveyor or other officer authorised to grant the same, to the satisfaction of the Controller of Excise, that the building or buildings within which it is desired to carry on distilling operations are substantial buildings in good repair, and suitable for the purpose.

License may be refused.

(2) The Controller of Excise may refuse to grant a license to any applicant. When he so refuses he shall deliver to the applicant a statement in writing of his reasons for such refusal. The applicant may, within fourteen days after receiving such statement, appeal to the Governor in Council against such refusal, and the decision of the Governor in Council on such appeal shall be final.

Spirit store; its situation, &c.

5. (1) Every distiller shall provide at his distillery a suitable and secure spirit store.

(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 of Excise.

May be placed under Revenue lock and key.

(3) A spirit store may be placed under Revenue lock and key under such conditions and regulations as may be approved and sanctioned by the Governor and communicated to the distiller.

(A) As to application of this sub-sec. (B) See schedule to Act 48, 1898, post. See Act 32, 1895, s. 14, post.

(4) If any distiller fails to comply with any of the provisions of this section he shall be liable to a penalty not exceeding One Hundred Pounds. Law 8, 1892.
Contraventions.

6. If any wash, low wines, feints, or spirits are found on any part of a distillery other than the receiver provided for their reception in the distillery, or the spirit store, or in any premises adjacent to or adjoining the distillery in the process of removal in properly marked casks, such wash, low wines, feints, or spirits shall be forfeited, and the distiller shall be liable to a penalty not exceeding One Hundred Pounds. Penalty for having wash, &c., except in receiver or in store, &c.

7. Every licensed distiller shall, within three months after the Controllor of Excise shall require him so to do, provide at or near his distillery a fit and proper house or lodgings, with a stable and other necessary appurtenances conveniently situated and approved by the Controllor of Excise, for the residence of the Excise Surveyor who may be placed in charge of the distillery, at a charge not exceeding Thirty-six Pounds per annum, and if any distiller shall neglect or refuse to provide such house, lodgings, or stable with other appurtenances, or shall not keep them in proper repair or the access thereto in a good and safe condition, or shall interfere with such officer in their use, he shall be liable to a penalty not exceeding Fifty Pounds. Distiller to provide lodgings for Excise Surveyor.

Rent.

8. (1) On the importation of any still or portion of a still, into this Colony, the Collector of Customs shall without delay apprise the Controllor of Excise thereof in writing, stating the name of the owner and importer of the still. He shall also inform the owner and importer of the liability incurred in keeping a still without a license in this Colony. Controllor to be informed of importation of still.

(2) The Controllor of Excise may allow any still or distilling apparatus imported solely for transport through this Colony into some Inland State or for exportation by sea, and not stored or remaining in the Colony beyond ten days, to pass to its destination without any license duty being paid in respect thereof. Stills passing in transit through Colony.

9. (1) Every distiller shall provide himself with and keep a stock-book in the form prescribed and in such place in his distillery as shall be approved by the Controllor of Excise, and such book shall contain the following particulars:— Stock book.

(a) The number of gallons of wash set up daily and the density of such wash at the time of setting up, as denoted by Bates's or other saccharometer approved by the Controllor of Excise, and the progressive number of the vat in which such wash has been set up.

(b) The liquid gallons of low wines, feints, or spirits made daily as ascertained from the dipping rod fixed in the Receiver for low wines, feints, or spirits, and the table of contents of such Receivers as approved by the Controllor of Excise, placed in the distillery.

(c) The proof gallons and strength of low wines, feints, or spirits found in any receiver when an account thereof is taken by any officer, and before any spirits are run from a receiver into casks to be placed in the spirit store.

(d) The quantity of spirits together with the strength thereof as denoted by Sykes's hydrometer removed or delivered from his spirit store; the progressive number of each cask and year marked thereon; the number of permit under which spirits are removed, and the name of the person and place to which the spirits are sent.

(2) He shall make these entries on the day that wash is set up, the low wines, feints, or spirits are distilled, or the account thereof Time of making entries.

Law 8, 1892.

taken, when the spirits are removed or delivered from spirit store, or at any other time if requested so to do by any officer.

Inspection of stock book.

(3) He shall keep such book open to inspection by any officer and shall allow such officer to make any entries therein or take any extract therefrom for a period of not less than twelve months after it is filled up.

Penalties for wrongful acts or omissions.

(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 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, cancel or convey away such book, he shall be liable to a penalty not exceeding One Hundred Pounds.

Correction of errors.

(5) If any distiller commits an error in making any entry required to be made in the stock-book, the incorrect entry shall not be erased or obliterated, but shall be cancelled by drawing a thin line through it, and the correct entry made. For any contravention of this subsection, the distiller shall be liable to a penalty not exceeding Fifty Pounds.

Amendment of sec. 22, Law 14, 1868,

10. Section 22, of Law No. 14, 1868 shall be amended by expunging the words "the end" occurring in the fifth line, and substituting therefor the words "both ends."

and other sections.

11. (1) Sections 23, 25, 27, and 32 of Law No. 14, 1868, shall be amended by expunging the word "Resident Magistrate" wherever occurring in the said sections, and substituting therefor the words "Controller of Excise."

Amendment of sec. 27, Law 14, 1868.

(2) The following proviso shall be added to Section 27, of Law No. 14, 1868: Provided that it shall be lawful for a Resident Magistrate to extend the time expressed in any removal permit accompanying casks of spirits in transit, on his being satisfied that such permit cannot be used within the time specified therein, and an extension of the time has been rendered necessary by unavoidable causes: Provided further, that any Resident Magistrate extending the time on any permit, shall without delay inform the Controller of Excise thereof, stating the reasons that necessitated the extension.

Amendment of sec. 28, Law 14, 1868,

12. Section 28 of Law No. 14, 1868, shall be amended by inserting therein, after the word "Law," occurring in the fourth line, the words "or imported spirits or wines."

and sec. 30,

13. The words "Magistrate granting the permit," occurring in Section 30 of Law No. 14, 1868, shall be expunged, and in lieu thereof shall be substituted the words, "the Controller of Excise or authorised officer granting the permit."

and sec. 44.

14. Section 44 of Law No. 14, 1868, shall be amended by inserting therein after the word "fit," occurring in the second line, the words "or at such time as the Controller of Excise may direct."

"Receiver General" to mean Controller of Excise.

15. (1) Whenever in any Law, Rule, or Regulation now in force, the term "Receiver General" is used, this term shall mean the Controller of Excise, and the latter shall be the designation of the principal officer and head of the Excise Department.

Status of Controller of Excise.

(2) The Controller of Excise shall be the principal officer charged with the administration of the excise system throughout the Colony, and shall be responsible to the Governor for the efficient carrying out of the Excise Laws, Rules, and Regulations.

Other officers.

(3) 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.

16. (1) Every person who shall obtain a license under this Law to distil spirituous liquors, must, before he uses any still or apparatus for distilling any low wines, feints, or spirits, erect and keep erected in his distillery a secure safe and receiver (A), or safes and receivers for low wines, feints, or spirits. Law 8, 1892.
Distillers to erect safes and receivers.
- (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. Their construction.
- (3) Every safe and receiver and 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 of Excise, or some officer deputed by him. To be adapted for Revenue locks and rods.
- (4) Only such rods and revenue locks and keys as shall be provided and approved by the Controller of Excise 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 of Excise, and such provision shall be made by each distiller for the safe custody of the keys and locks when not required to be in use, as shall be deemed necessary and approved by the Controller of Excise. Approved rods and Revenue locks and keys to be used.
- (5) For any contravention of this section every such distiller shall forfeit all low wines, feints, or spirits distilled, and shall be liable to a penalty not exceeding One Hundred Pounds. Contraventions.
- (6) The Governor may by Proclamation appoint such time as may appear reasonable and necessary within which safes and receivers may be erected in compliance with the requirements of this section, and until the expiry of such time the previous provisions of this section shall not apply to any distillery licensed for the year 1892. Time for erection.
17. Towards the cost of the erection of the locked safes and receivers required by the foregoing section, the Governor is hereby empowered to grant to each distiller a sum not exceeding Fifty Pounds; or where structural alterations are necessary for the purpose of erecting them in existing distilleries, a sum not exceeding One Hundred Pounds: Provided, that such payments shall only be made on production of the certificate of the Controller of Excise that the safe and receivers have been constructed to his satisfaction. Grant from Revenue towards cost of safes and receivers.
18. (1) If any dipping rod, lock, or key shall be broken or injured or destroyed, or if any pipe, cock, or fastening connected with a safe or receiver (B) shall be pierced, broken, or injured, the distiller shall be obliged to repair or renew the same to the satisfaction of the Controller of Excise, and if such repairs or renewal be made by the Controller of Excise, the distiller shall pay him the cost thereof. Repair of injuries to lock, rod, &c.
- (2) If any such breakage, injury, piercing or destruction of a dipping rod, lock, or key, or of a pipe, cock, or fastening connected with a safe or receiver as aforesaid shall be directly or indirectly caused by the wilful act, connivance, neglect, or improper conduct of the distiller or of any person employed in or about the distillery, the distiller may, in addition to the cost of repair or renewal, be adjudged to forfeit a sum not exceeding One Hundred Pounds. Punishment for wilful or negligent injury.
- (3) If any wash shall be conveyed away from a distillery for any purpose whatever, or if any low wines, feints, or spirits shall be taken from any safe, receiver, or pipes connected therewith otherwise than through the discharging cock of the respective receivers after an account of the contents of such receivers has been taken by the proper officer, the distiller shall be liable to a penalty not exceeding One Hundred Pounds; and all such wash, low wines, feints, or spirits so removed, Wrongful conveyance or taking of wash, low wines, &c.

(A) See Act 11, 1894, post.

(B) See Act 11, 1894, post.

Law 8, 1892. together with the vessels, vehicles, or animals found in connection therewith, shall be forfeited.

Removal of spirits from warehouse for conveyance and export overland; duty thereon.

19. Any spirits distilled in this Colony, and deposited in any public warehouse or Government bonding warehouse under the Laws and Regulations for the time being in force in that behalf, may be removed from any such warehouse for the purpose of being conveyed overland beyond the boundaries of the Colony into any inland State, by such routes and through such ports of exit as the Governor in Council may from time to time appoint by proclamation in the "GOVERNMENT GAZETTE," upon payment of three pence sterling upon each and every proof gallon of such spirits so removed (A), and under such special conditions and restrictions as the Governor in Council may from time to time direct, order, or appoint.

Security to be given before removal.

20. No spirits shall be removed from the warehouse for the purpose specified in the foregoing section until the person or firm applying for such removal shall have given security by bond, with one or more sureties, to be approved by the Controller of Excise, in treble the amount of duty payable for the time being on Colonial spirits consumed in the Colony, on the proof gallons of spirits it is desired to export overland, as aforesaid, that the said spirits shall be delivered and produced to the officer stationed at the port of exit, stated in the request note and embodied in the permit granted to accompany the spirits in transit, or be otherwise accounted for to the satisfaction of the Controller of Excise.

How bond may be cancelled.

21. The said Controller of Excise is hereby authorised and empowered to cancel such bond on receipt of due proof that the spirits so exported overland as aforesaid have been produced to and passed by the Excise or Customs officer stationed at the port of exit, through which the spirits were authorised to cross the boundary of this Colony, and that the conditions of export have been in every respect complied with.

Retreatment of bond for wrong ful conveyance or detention.

22. If any spirits so exported shall be conveyed beyond the boundary of this Colony without production of the same to the officer at the authorised port of exit specified in the permit; or shall be conveyed beyond the boundary of this Colony by any road, route, or port of exit other than that specified in the permit, or shall be found within this Colony for a longer period than seven days after the time specified in the permit; unless from some unavoidable cause, which shall have been duly reported to the Controller of Excise or a Resident Magistrate, and an extension of the time granted and endorsed on the permit, the bond may be sued upon, and the amount thereof recovered in any competent Court: Provided, however, that the Controller of Excise shall have power and authority in his discretion to sue for and recover under the bond any less sum than that secured by the bond, but not less than one-third of the sum named therein.

Forfeiture of spirits not exported, or brought back into Natal.

23. If any spirits removed for exportation overland under the provisions of this Law, shall not be so exported, or after being exported shall be again brought back into this Colony or shall be found anywhere within this Colony after production to the Excise or Customs officer at the authorised port for their exit, such spirits shall be forfeited without any adjudication of forfeiture thereon, together with any animals or vehicles of whatever kind or description used in connection with the improper conveyance of such spirits so returned into or detained in this Colony, and the person or persons in whose charge, custody, or possession such spirits, animals, or vehicles shall be found, shall be liable upon conviction to a penalty of One Hundred Pounds, or to be imprisoned with or without hard labour for any period not exceeding two years.

Punishment.

See Act 32, 1895, s. 16, post.

24. All contraventions of Law No. 14, 1868, or of this Law for which no higher penalty is imposed than One Hundred Pounds; and whether such penalty involves forfeiture or not, shall be prosecuted by the Clerk of the Peace or any officer specially deputed by the Attorney-General in that behalf, in the Court of the Resident Magistrate having jurisdiction; and all contraventions for which a higher penalty than One Hundred Pounds is imposed shall, unless otherwise specially provided, be prosecuted by the Attorney-General upon indictment in 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: Provided, further, that in the case of any person being charged with an offence not otherwise cognisable by a Magistrate, it shall be lawful for the Attorney-General to direct the case to be tried in the Court of a Magistrate, and, thereupon, it shall be competent for such Magistrate to take cognisance of such offence, and to award in respect thereof such punishment, and to decree such forfeiture as if the case were one which by the first part of this section is brought within the jurisdiction of the Court of a Magistrate, or were otherwise within the jurisdiction of his Court.

Law 8, 1892.
Prosecutions of contraventions of Law 14, 1868, and of this Law.

25. All contraventions of this Law, not otherwise specially provided for, shall be prosecuted by the Clerk of the Peace in the Court of the Resident Magistrate of the County or Division having jurisdiction, or in such other competent Court as the Attorney-General shall order and appoint.

Prosecutions by Clerk of the Peace.

26. It shall be lawful for the Governor in Council from time to time to make, and to alter or repeal Rules and Regulations for the better carrying out of this Law, and such Rules and Regulations shall, in so far as they are not inconsistent with or repugnant to, the provisions of this Law, have the same power and effect as if they were herein inserted and set forth; and by such Rules and Regulations any penalty may be imposed, not exceeding Fifty Pounds for any contravention thereof.

Rules and regulations.

27. The short title of this Law shall be the Excise Law Amendment Law, 1892.

Short title.

28. This Law shall come into force and take effect on such date after the promulgation thereof in the "NATAL GOVERNMENT GAZETTE," after the passing thereof, as shall be fixed by Proclamation of His Excellency the Governor (A).

Commencement

29. This Law, and Law No. 14, 1868, shall be read and construed together as one Law.

To be read with Law 14, 1868.

SCHEDULE.

Laws Repealed.

Schedule.

No. of Law.	Title.	Extent of Repeal.
Law 14, 1868	Law to amend the Law as to the Distillation of Spirituous Liquors	Sections 3, 5, 6, 7, 15, 19, 76.
Law 14, 1876	Law to amend the Excise Law, 1868	The whole Law.
Law 3, 1889	Law to amend Law No. 14, 1876, entitled Law to amend the Excise Law, 1868	The whole Law.

(A) Came into force Dec. 1, 1892. See Pn. in G.G., dated Sept. 6, 1892.

Act No. 11, 1894.

“To Amend the Excise Law Amendment Law, 1892.”

[5th July, 1894.]

WHEREAS it is desirable to legalise the use in distilleries of the apparatus known as Siemens' Alcoholometer, and for that purpose to amend Law No. 8, 1892:

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:—

Siemens' Alcoholometer.

1. Notwithstanding the provisions of the Sixteenth Section of Law No. 8, 1892, it shall be lawful for the Controller of Excise to dispense with the erection of such a safe and receiver as are in the said section mentioned in any case where the apparatus known as Siemens' Alcoholometer shall have been erected to his satisfaction.

Other apparatus.

2. The provisions of the preceding section shall apply to any apparatus which, upon the recommendation of the Controller of Excise, shall be approved by the Governor in Council.

References in secs. 16 and 18, Law 8, 1892.

3. Wherever in Sections 16 and 18 of Law No. 8, 1892, a safe and receiver are referred to, such reference shall, “mutatis mutandis,” also include Siemens' Alcoholometer, or such other apparatus as is in the Second Section of this Act mentioned.

Meaning of words used in Law 8, 1892, and this Act.

4. The words “distilling apparatus” and “apparatus” wherever occurring in Law No. 8, 1892, or in this Act, shall include Siemens' Alcoholometer and any apparatus such as is in the Second Section of this Act referred to.

Act No. 32, 1895.

“To amend the Excise Laws.”

[24th August, 1895.]

WHEREAS it is expedient to amend the Excise Laws of this Colony:

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:—

Repeal of Laws.

1. The Laws No. 14 of 1868, No. 1 of 1871, No. 36 of 1874, No. 17 of 1878, No. 16 of 1884, No. 24 of 1888, No. 8 of 1892, and the Act No. 11 of 1894, in so far as they are in conflict with this Act, shall be, and the same are, to that extent repealed or amended.

Short title.

2. This Act may be cited as the Excise Act of 1895, and shall be read and construed together with the Excise Law, 1868, and the Excise Law Amendment Law, 1888, and the Law No. 8, 1892, as one Act.

Meaning of “Methylated spirits.”

3. The term “Methylated Spirits,” for the purposes of this Act and of the said amended Laws and Act, shall be deemed to mean Spirits rendered undrinkable by the admixture of Wood Naphtha, Methylic alcohol, or other ingredients.

Prohibition of sale to Natives and Indians.

4. 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.

Licenses to rectify and compound spirits.

5. Licenses under Section 12 of the Excise Law Amendment Law, 1888, shall, in future, be granted and signed by the Controller of Excise, in lieu of the Resident Magistrate, and the said Controller, before granting any such License, shall satisfy himself that the buildings

- or premises in which it is proposed to rectify or compound spirits are of a suitable character for the purpose. **Act 32, 1895.**
6. Section 16 of the Excise Law Amendment Law, 1888, is hereby amended by substituting £36 as the yearly cost or rental of a house to be provided by a rectifier for the use of an Excise Officer as required by the said section. **Rental of Excise Officer's house.**
7. Section 22 of the said Excise Law Amendment Law, 1888, is hereby amended by allowing a rectifier, as therein mentioned, to re-distil or rectify low wines or spirits from spirits received under an authorised and approved bond, as hereinafter in this Act provided. **Re-distillation and rectification from spirits received in bond.**
8. Section 24 of the Excise Law Amendment Law, 1888, is hereby amended by allowing a rectifier or compounder of spirits to receive spirits into his premises and stock, for rectifying or compounding under an authorised and approved bond, as hereinafter in this Act provided. **Receiving spirits in bond.**
9. Section 26 of the Excise Law Amendment Law, 1888, is amended by altering the percentage of deficiency from five to six. **Allowance for deficiency.**
10. Any spirits deposited in a warehouse under the provisions of Section 28 of Law No. 14, 1868, as amended by Section 12 of Law No. 8, 1892, or under the provisions of Section 29 of Law No. 24, 1888, may be racked and bottled in the warehouse in such manner and under such conditions as may be from time to time appointed by regulations made under the provisions of Section 80 of Law No. 14, 1868, or under the authority of this Act. **Racking and bottling spirits in warehouse.**
11. Section 28 of the Excise Law Amendment Law, 1888, is hereby amended by adding thereto the following proviso, that is to say:—
 Provided that spirits methylated under a bond or under authorised regulations may be so sent out as aforesaid, subject to the provisions of the said Section 28 of the Excise Law Amendment Law, 1888, and of the Excise Act, 1895. **Sending out of spirits methylated under bond or regulations.**
12. Section 29 of the Excise Law Amendment Law, 1888, is hereby amended by allowing a rectifier or compounder to warehouse Colonial compounds rectified or compounded by him, from spirits under an approved bond as provided by this Act, and the said Section 29 is further amended as follows:—
 Sub-Section (c) by adding thereto the words following:—"or in cases containing not less than one dozen quart or two dozen pint bottles, comprising two gallons Imperial measure, provided that the total quantity be not less than 15 gallons."
 Sub-Section (d) by inserting after the word "casks," the words "or cases containing each not less than one dozen quart or two dozen pint bottles, comprising two gallons Imperial measure."
 Sub-Section (e) by inserting after the word "casks," the words "or cases."
Warehousing Colonial compounds from spirits in bond.
Quantities: cases and their contents.
13. The provisions of Sections 47 and 48 of Law No. 14, 1868, shall extend to, and apply in respect of, all spirits, whether made in the Colony or imported, anything in Law No. 17, 1878, to the contrary notwithstanding. **Books required to be kept in connection with imported and Colonial spirits.**
14. The provisions of Section 3, Sub-Section 2 (a), of Law No. 8, 1892, shall apply to every still, or distilling apparatus, or portions thereof, which shall be made, or imported, or kept for sale, or for any purpose whatever. **License for stills.**
15. Every person who shall, after the commencement of this Act, make a still, or any distillery apparatus, or part thereof, shall:—
 (a) Indent on every such still or distilling apparatus its progressive number, capacity in gallons (Imperial measure), and the maker's name; **Duties imposed on makers of stills.**

Act 32, 1895.

- (b) Keep in the licensed premises where such still or distillery apparatus is being made or kept a book in the form to be prescribed by the Controller of Excise;
- (c) Enter in the said book the progressive number, and the capacity of each such still or distilling apparatus, the name and residence of the purchaser, and the date when any such still or distilling apparatus is sent away; and
- (d) Leave such book open to the inspection of the Controller of Excise or Officer appointed by him for the purpose, and allow any extracts to be made from the book by such Controller or Officer.

Duty on spirits removed for conveyance overland.

16. The payment on spirits removed from a warehouse for conveyance overland under Section 19, of Law No. 8, 1892, may be an "ad valorem" duty of such rate or amount as the Governor in Council shall from time to time fix and notify in the "NATAL GOVERNMENT GAZETTE."

To whom a maker may dispose of methylated spirits.

17. Any person who shall methylate spirits under the provisions of Section 45 of Law No. 14, 1868, or import such spirits under the Customs Ordinances or Laws, shall not dispose of such spirits to any person or persons, other than the holder of a license as in the next succeeding section of this Act mentioned, and subject to any regulations made by the Governor in Council under the authority of this Act.

Methylated spirits must be made undrinkable.

18. All spirits methylated under the provisions of Section 45 of Law No. 14, 1868, or of this Act, or allowed to be imported as Methylated Spirits, must be so methylated or rendered undrinkable to the satisfaction of the Controller of Excise or the Collector of Customs, as the case may be.

19. [Repealed by Act No. 50, 1898.]

License to deal in methylated spirits.

20. No person or firm, other than the maker or importer, shall sell or supply any methylated spirits, unless he or they hold a license granted by the Controller of Excise to retail methylated spirits.

- (a) Every such license shall specify the name and address of the holder, and the premises in respect of which it is granted.
- (b) The sum of Three Pounds shall be paid for each license by dealers in Pietermaritzburg and Durban, and Thirty Shillings by dealers in all other parts of the Colony. The license shall bear the date of its issue, and shall expire on the 31st day of December next following.
- (c) No sale shall be made under any such license, except at the premises and by the person or firm named therein: Provided that the license may be transferred with the consent of the Controller of Excise; and
- (d) Any person or firm selling methylated spirits, without the license aforesaid, or keeping or selling such spirits on premises not specified and authorised on the license, shall forfeit a sum not exceeding One Hundred Pounds sterling, together with all spirits found in such unauthorised premises.

To whom a license may not be granted.

21. A license to sell methylated spirits by retail under this Act shall not be granted to a person or firm carrying on any of the following businesses or trades, that is to say:—

- (a) A wholesale dealer in or a 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.

And no person or firm carrying on any such business or trade as hereinbefore mentioned, shall have or keep in his or their premises, or in premises connected therewith, by any private or internal communication, methylated spirits, except such as he or they may have received from a licensed dealer in such spirits, under the provisions of this Act, or under any authorised regulations made under this Act:

Act 32, 1895.
Limit to amount of methylated spirits to be kept by them.

Provided that the provisions of this section shall not apply to a distiller or rectifier for merely keeping or storing on his licensed premises methylated spirits made by himself under authorised regulations.

Saving in favor of makers.

22. Any wholesale dealer in or retailer of spirits, wines, cordials, ale, beer, or porter, or a distiller, rectifier, or compounder of spirits (excepting as hereinafter provided), or a brewer of ale, beer, porter, or other fermented liquors, having in his or their possession or on his or their licensed premises any methylated spirits, other than what has been received from a licensed retailer, or exceeding in quantity one gallon at the same time, or who shall purify, tamper with, or mix with any ingredient, either liquid or solid, such methylated spirits, or trade in or dispose of such spirits in any manner whatever, shall forfeit a sum not exceeding £100, together with all such spirits with respect to which the offence is committed:

Offences by dealers, retailers, and distillers of spirits, and by brewers.

Provided that the provisions of this section shall not apply to a distiller or rectifier for merely keeping and storing on his licensed premises methylated spirits in their original condition, as made by himself under authorised regulations.

23. A dealer in methylated spirits shall not receive or have in his possession at any one time a greater quantity than 100 liquid gallons of methylated spirits, and shall not receive methylated spirits except from an authorised maker or importer of methylated spirits in quantities of not less than fifteen liquid gallons at a time.

Quantity to be stored by dealer.

24. A licensed retailer shall not supply to any person more than one gallon of methylated spirits at a time.

Restrictions on receiving methylated spirits.

(a) He shall keep an account in such form as shall be prescribed by the Controller of Excise of his stock of methylated spirits; and

Retail dealers: quantities to be sold.

(b) Shall at all reasonable times produce his stock of methylated spirits for examination by the Controller of Excise or any officer authorised by him.

Accounts.

Examination of stock.

25. The Controller of Excise or any officer authorised by him may in the day time or night time (but if in the night time between the hours of 8 p.m. and 6 a.m., in the presence of a police constable) enter and inspect the premises of a dealer in methylated spirits, and inspect, examine, and take samples of any methylated spirits found therein on paying cost price for each sample.

Inspection, &c., by authority of Controller of Excise.

26. Any dealer in methylated spirit or other person in his employ refusing to allow the Controller of Excise or officer appointed by him to exercise any of the powers aforesaid, or refusing to furnish necessary lights, ladders and assistance for examining the stock or taking samples of methylated spirits, shall be deemed to have contravened this Act.

Offence of obstructing officer in inspection.

27. Any person shall be guilty of an offence who

Offences defined.

(a) Not being licensed as aforesaid, shall be in possession of more than one gallon of methylated spirits, or five gallons in cases where the industry carried on by such person shall require the use of such Methylated Spirits;

(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

- Act 32, 1895. (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.

Punishment. For any contravention of the provisions of this section every person or persons so offending or in whose premises any such offence may take place shall forfeit a sum not exceeding One Hundred Pounds sterling, together with all spirits with respect to which the offence is committed.

Form and conditions of bond. 28. The bond to be given by a rectifier or compounder of spirits under the provisions of this Act shall be in such form as may from time to time be prescribed by the Governor in Council, and shall be signed by the principal obligor and two sureties to be approved by the Controller of Excise, and shall be for treble the Colonial duty that would be chargeable on the total quantity of spirits found at one and the same time on the premises of the rectifier or compounder giving such bond, including any spirits under the process of rectification or in transit between such premises and the warehouse whence removed or where they are to be again deposited.

Payment of duty before removal for rectifying or compounding. 29. Before any spirits shall be removed from a warehouse under bond, as provided by this Act, for rectifying or compounding, the duty on any deficiency exceeding the authorised allowance, together with any warehouse rent and charges due thereon, must be first paid to the Controller of Excise.

Receivers and fastenings to be provided. 30. Every rectifier and compounder shall provide and maintain, at his own expense, to the satisfaction of the Controller of Excise:—

- (a) A receiver or receivers sufficient and secure for the storage of spirits for rectifying and compounding, or for rectified and compounded spirits.
- (b) Sufficient and secure fastenings on all receivers and stills for the reception of dipping rods and revenue locks.

Rods, locks, and keys. 31. Only such rods, revenue locks and keys as shall be provided and approved by the Controller of Excise, at Government expense, shall be used on the premises of any rectifier or compounder of spirits; and every receiver and still shall be kept locked unless opened for a lawful purpose specially sanctioned by the Controller of Excise, under the supervision of an Excise Surveyor, or when allowed to be open under the inspection of the Controller of Excise or Officer deputed by him for the purpose.

Injury to rods, locks, pipes, &c. 32. If any dipping rod, lock or key shall be broken or injured or destroyed, or if any pipe, cock, or fastening connected with a receiver or still shall be pierced, broken, or injured, the rectifier or compounder shall be obliged to repair or renew the same to the satisfaction of the Controller of Excise, and if such repairs or renewal be made by the Controller of Excise, the rectifier or compounder shall pay him the cost thereof.

Penalty for injury by wilful or negligent act. 33. If the breakage, injury, piercing or destruction of a dipping rod, lock or key, or of a pipe, cock or fastening connected with a receiver or still shall have been, either directly or indirectly, caused by the wilful act, connivance, neglect, or improper conduct of the rectifier or compounder, or of any person employed in or about the rectifying or compounding premises, the rectifier or compounder shall, in addition to paying the cost of the requisite renewal or repairs as prescribed by this Act, be liable to a fine not exceeding One Hundred Pounds sterling.

34. The Governor in Council may from time to time make, amend, alter, or repeal regulations for carrying out this Act, and may impose any penalty not exceeding Fifty Pounds sterling for any contravention of such regulations. All regulations made under this Act shall be laid before the Legislative Assembly and Legislative Council as soon as may be after they are made, and shall be published in the "NATAL GOVERNMENT GAZETTE."

Act 32, 1895.
Regulations.

35. All contraventions of this Act or of any regulations made under the authority of this Act, shall be heard and determined in the Court of the Magistrate having jurisdiction in the division in which such contravention may have been committed.

Prosecution of offences.

36. Every person who shall contravene any of the provisions of this Act for which a special penalty has not been provided, shall be liable to a penalty not exceeding Fifty Pounds sterling.

General provision regarding penalties.

Act No. 6, 1898 (A).

"For the better protection of the Customs and Excise Revenue in certain cases."

[19th May, 1898.]

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. Whenever and as soon as any member of the Executive Council, acting for and on behalf of the Governor, shall in the Legislative Assembly give notice of a resolution whereby it shall be proposed to affirm the expediency of increasing the rate of Customs duty payable upon the importation of any goods, merchandise, or things, it shall be lawful for the officers of the Customs Department, acting under instructions to that effect from the Governor in Council, to refuse to permit any of the goods, merchandise, or things mentioned in such resolution to be entered for consumption unless and until the person proposing to pay duty upon the same shall, together with a surety to be approved by the Principal Officer of Customs at the port of entry, enter into a bond conditioned for the payment of such increased duty as Parliament may afterwards authorise and impose, or shall deposit the amount of such increased duty. The aforementioned bond shall be in substance in the form set out in Schedule A of this Act.

Immediate effect may be provisionally given to proposal for increase of Customs Duties upon notice being given in Legislative Assembly.

2. In like manner whenever and as soon as notice shall be given as aforesaid of a resolution affirming the expediency of increasing the rate of Excise duty upon any spirits or other things, it shall be lawful for the officer of the Department of Excise, acting under instructions to that effect from the Governor in Council, to refuse to allow any such spirits or other things as are mentioned in the resolution to be delivered for consumption unless and until the person proposing to pay duty thereon shall in manner as aforesaid enter into a bond in the form of Schedule B of this Act, or shall deposit the amount of such increased duty.

Similar provision in regard to Excise Duty.

3. In case Parliament shall, by any Act thereof passed during the same Session, direct and appoint that the rate of Customs or Excise duty, as the case may be, previously payable upon any article or articles mentioned in any such resolution shall be increased, it shall be lawful

Recovery of Duties upon the passing of an Act.

(A) Repealed, in so far as it relates to the Customs, by Act 13, 1899. See also Act 11, 1898, s. 1, ante p. 28.

Act 6, 1898. for the Collector of Customs or the Controller of Excise to call upon the person who entered or delivered for consumption the said article or articles to pay the difference between the duty paid by him and the increased duty payable under the said Act; and in case he shall refuse or neglect so to do, the said bond shall, by the said Collector of Customs or Controller of Excise, be put in suit for the recovery of such difference, or, in case a deposit of the proposed increased duty shall have been made, the deposit shall, to the extent of the increased duty payable under the Act, be paid to the General Revenue as Customs duty.

Effect of alteration of duties upon purchase price of goods sold before payment of duty.

4. In the event of any increase, decrease, or repeal of Customs or Excise duties chargeable upon any article after the making of any contract or agreement for the sale or delivery of such article duty paid, it shall be lawful for the seller, in case such increase shall accrue before the clearance or delivery of such article at such increased duty, and after payment thereof, to add so much money to the contract price as will be equivalent to such increase of duty, and he shall be entitled to be paid and to sue for and recover the same; and it shall be lawful for the purchaser under any such contract or agreement, in case such decrease or repeal shall take effect before the clearance or delivery at such decreased duty, or free of duty, as the case may be, to deduct so much money from the contract price as will be equivalent to such decrease of duty or repealed duty, and he shall not be liable to pay or be sued for or in respect of such deduction.

Introduction of a bill for increased duties to have same effect as notice of resolution.

5. If in any case the Governor shall, instead of causing such a resolution as aforesaid to be offered to the Legislative Assembly, send down to the Legislative Assembly a Bill having for its object an increase of the Customs or Excise duty payable upon any article or articles enumerated in the Bill, then, when and as soon as such Bill shall have been introduced, the same effects and consequences shall follow as those in the preceding sections mentioned in regard to the giving of notice of the resolutions therein described.

Determination of right of provisional increase of duties.

6. The right of requiring such bonds or deposits as aforesaid to be entered into or made shall in no case endure longer than till the end of the Session of Parliament in which any such resolution or any such Bill as aforesaid shall have been brought under the consideration of Parliament; and such right may by order of the Governor in Council be terminated sooner, in case it shall appear that Parliament declines to sanction the proposed increase of Customs or Excise duty.

SCHEDULE A.

Schedule.

Act No. 6, 1898.

Schedule A.

Bond.

KNOW ALL MEN BY THESE PRESENTS, that we, A. B. of _____ and C. D. of _____ are held and firmly bound to Her Majesty the Queen in the sum of £_____ (Here insert a sum reasonably sufficient to cover such amount as may become claimable); to be paid by us, jointly and severally, and each for the whole, as co-principal debtors.

Dated at _____ this _____ day of _____ 189 .

(Signed) A. B.
C. D.

Witness: E. F.

WHEREAS there is now under the consideration of Parliament a proposal to increase the rate of Customs duty payable upon certain articles enumerated in such proposal; and whereas the said A. B. has applied to pay duty according to the existing tariff upon certain articles enumerated in the said proposal, namely: (Here insert the articles mentioned in the Resolution or Bill which A. B. proposes to pay duty upon).

Act 6, 1898.
Schedule A.

Now the condition of the above Bond is such that if the said A. B. shall, upon demand, pay to the Principal Officer of Customs at this port of _____ the difference between the amount of the Customs duty now to be paid by him upon the above articles and the amount of such duty calculated according to the rate of duty which shall by any Act or Acts to be passed during the present Session of Parliament be made payable upon the said articles, or any of them, the above bond to be null and void, but otherwise to be of full force and effect.

SCHEDULE B.

Act No. 6, 1898.

Schedule B.

Schedule B.

Bond.

KNOW ALL MEN BY THESE PRESENTS, that we, A. B. of _____ and C. D. of _____ are held and firmly bound to Her Majesty the Queen in the sum of £_____ (Here insert a sum reasonably sufficient to cover such amount as may become claimable); to be paid by us, jointly and severally, and each for the whole, as co-principal debtors.

Dated at _____ this _____ day of _____ 189

(Signed) A. B.
C. D.

Witness: E. F.

WHEREAS there is now under the consideration of Parliament a proposal to increase the rate of Excise duty payable upon certain articles enumerated in such proposal; and whereas the said A. B. has applied to pay duty according to the existing tariff upon certain articles enumerated in the said proposal, namely: (Here insert the articles mentioned in the Resolution or Bill which A. B. proposes to pay duty upon).

Now the condition of the above Bond is such that if the said A. B. shall, upon demand, pay to the Principal Officer of Excise at _____ the difference between the amount of the Excise duty now to be paid by him upon the above articles and the amount of such duty calculated according to the rate of duty which shall by any Act or Acts to be passed during the present Session of Parliament be made payable upon the said articles, or any of them, then the above bond to be null and void, but otherwise to be of full force and effect.

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Act No. 11, 1898 (A).

“To afford certain relief, in respect of the increased Duties of Customs and Excise imposed or secured by Bonds or Deposits under the provisions of Act No. 6, 1898.”

Act No. 48, 1898.

“To increase the Excise Duties upon Spirits distilled in this Colony.”

[3rd September, 1898.]

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:—

Repeal.

1. The Laws enumerated in the Schedule of this Act are hereby repealed to the extent shown in the third column of the Schedule.

Excise duty upon spirits distilled in the Colony.

2. There shall be raised, levied, collected, and paid to Her Majesty for and upon every gallon of rum or other spirits not exceeding the strength of proof by Sykes' Hydrometer, whether already made and distilled, or which may hereafter be made and distilled, in this Colony, a duty of Seven Shillings and Sixpence sterling, and so on in proportion for any greater strength, and such duty shall be paid to the Controller of Excise before the spirits are removed from an approved distillery store or an authorised warehouse.

Rebate on rectified spirits of wine, for use of chemists.

3. The Governor in Council may provide by regulations for the rebate of the whole or any part of the Excise Duties upon rectified spirits of wine made from spirits distilled in this Colony solely for the use of chemists and druggists in the preparation of medicines, perfumery, and non-potable articles. Such regulations may provide for the placing of such rectified spirits in bond, and may empower the Controller of Excise, if he should in any case see fit to do so, to require that the medicine or other preparations as aforesaid shall be made in bond.

Act not to affect exemption of methylated spirits or duty on spirits exported overland.

4. Nothing in this Act shall be deemed to affect the provisions of Section 47 of Law No. 14, 1868, respecting the exemption of Colonial methylated spirits from duty, or of Section 16 of Act No. 32, 1895, respecting the duty upon spirits removed from a warehouse for conveyance overland.

Commencement

5. This Act shall take effect upon a date to be appointed by the Governor in Council, and shall be read and construed together with Law No. 14, 1868, or any Law or Act amending the same (B).

SCHEDULE.

	No. and Year of Law.	Title.	Extent of Repeal.
Schedule.	14, 1868.	Law to amend the Law as to the Distillation of Spirituous Liquors.	Sections 2 and 14, The proviso of Section 13.

(A) See this Act ante page 28.

(B) Took effect Jan. 3, 1899. See Pn. in G.G. dated Dec. 30, 1898.

No and Year of Law.	Title.	Extent of Repeal.	Act 48, 1898. Schedule.
16, 1884.	Law to amend Law 14, 1876, and to increase the Duties levied upon Spirits distilled in the Colony of Natal.	The whole Law.	
8, 1892.	Law to amend the Law relating to Excise.	Section 3, Sub-section (4), so far as the same relates to private stills licensed under Sections 13 and 14 of Law No. 14, 1868.	