

# Statute Law of the Transvaal

## 1839—1910

(IN FORCE ON 31ST MAY, 1910)

### Vol. I

### 1839—1900

(SOUTH AFRICAN REPUBLIC)

Compiled and Edited by

CARL JEPPE

*Advocate of the High Court of the late South African Republic, and of the Supreme Courts of the Transvaal and Cape of Good Hope*

AND

J. H. GEY VAN PITTIUS, LL.D. (Leyden)

*Of the Middle Temple, Barrister-at-Law; Advocate of the Supreme Court of the Transvaal*

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## PREFACE

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THE "Statute Law of the Transvaal," the first volume of which is now published, will comprise all Laws and Enactments in force in this Colony on the 31st of May, 1910, the date of the establishment of the Union of South Africa. The compilation will be issued in three volumes, the first of which embraces the Laws of the South African Republic; the second will contain the Statutory Proclamations and Ordinances of the Crown Colony Government; and the third the Acts passed since the establishment of Responsible Government in the Transvaal; to the last of these volumes will be appended an exhaustive index of the entire compilation.

A chronological table, giving a complete detailed index of all Laws, Volksraad Resolutions, Ordinances, Acts, and Proclamations promulgated in or for the Transvaal from 1839 to 31st May, 1910, together with such Government Notices which have legislative or administrative bearing, will be issued in a further separate volume. This table will indicate whether, when, and in what manner such enactments have been amended, repealed, or superseded; and it will be accompanied by an alphabetical index.

With reference to the first volume, now published, it may be stated that no complete compilation exists of the Laws and Volksraad Resolutions of the South African Republic. The 1849-1885 compilation is largely obsolete and omits a good deal of matter, some of which is still in force. Compilations were also issued of the years 1886-1887, 1888-1889, 1890-1893, 1894, 1895, 1896, 1897, and 1898; these too omitted much that was of importance, and a large portion of their contents is superseded. The Laws, Resolutions, and Proclamations of 1899 and 1900 were never compiled.

On the annexation of the Republic it was found necessary to publish with the least possible delay a translation of the Laws then in force in the Transvaal. In the absence of reliable material as indicated above, it could not be expected that this compilation would be either complete or exact. Great difficulties were also experienced in translating, as many Volksraad Resolutions, and often Laws also, were couched in inexact, ambiguous, and ungrammatical terms.

In the volume now published it was possible to devote fuller consideration to the task of translation; and when any doubt as to the meaning of the words remained, the Dutch term or phrase is given in brackets. The translations of several Laws, such as, for instance, the Insolvency Law, had to be entirely recast.

As to the text of the Laws, recourse has in all cases been had to the promulgations in the *Staatskoerant*, and prior to its publication (1857) to the Volksraad Minutes; the discrepancies between the original text and that of the previous compilations are referred to in the footnotes.

This volume also contains the more important Treaties and Conventions entered into before 1900.

CARL JEPPE.

J. H. GEY VAN PITTIUS.



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## ERRATA

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VRR. 16th June, 1876, art. 235, p. 45 (Licence skittle alleys), is repealed by Tr. Pr. No. 34, 1901, as published in the *Gazette*; in the authorized compilation of 1900-1902 the article repealed was given as 232, which error was discovered too late for rectification.

VRR. 15th May, 1883, art. 74, p. 120, first sidenote, read "legalization" instead of "legislation".

VRR. 1889, art. 1209, p. 183. See *Engelbrecht vs. The Sheriff* (1904, T.S. 615), where it was held that this VRR. was merely a fiscal administrative direction and not binding on the successors of the Government of the S.A.R.

Pr. 25th April, 1899, p. 434, first sidenote, read "Asiatic" instead of "native".

# LAWS OF THE TRANSVAAL.

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**1851.**

VOLKSRAAD RESOLUTION, January, 1851.

Art. 67. The Hon. Raad has resolved to notify to all and every person whoever he may be who may be found to cause disturbances or to abet in creating or causing dissension or disunion be it in whatever manner to the detriment of the United Society of the Emigrants and not only he who abets but he who hears such and does not notify the Landdrost or the Hon. Raad or the Commandant-Generals shall be punished with a fine; he who causes or attempts to cause such shall pay a fine of 150 rix-dollars\* for the first time and 500 rix-dollars for the second time, and those who have known of it and have not notified, a fine of 50 rix-dollars for the first time and 100 rix-dollars for the second time, and in case of subsequent repetitions (volgende rijse) the punishment shall be doubled.

Against public disturbances and dissension.

Penalties.

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\* One rix-dollar = 1s. 6d.

**1852.****\* SAND RIVER CONVENTION, 1852.**

Minutes of a meeting held in the place of Mr. P. A. Venter, Sand River, on Friday, the 16th day of January, 1852, between Major W. Hogge and C. M. Owen, Esq., Her Majesty's Assistant Commissioners for the settling and adjusting of the affairs of the eastern and north-eastern boundaries of the Colony of the Cape of Good Hope, on the one part, and the following deputation from the emigrant farmers residing north of the Vaal River:—

- A. W. J. Pretorius, Commandant-General.
- H. S. Lombard, Landdrost.
- W. F. Joubert, Commandant-General.
- G. J. Kruger, Commandant.
- J. N. Grobbelaar, Raadslid.
- P. E. Scholtz.
- P. G. Wolmarans, Ouderling.
- J. A. van Aswegen, Veld-cornet.
- F. J. Botes, Veld-cornet.
- N. J. S. Basson, Veld-cornet.
- J. P. Furstenberg, Veld-cornet.
- J. P. Pretorius.
- J. H. Grobbelaar.
- J. M. Lehman.
- P. Schutte.
- J. C. Kloppers; on the other part.

The Assistant Commissioners guarantee in the fullest manner on the part of the British Government to the emigrant farmers beyond the Vaal River the right to manage their own affairs and to govern themselves according to their own laws without any interference on the part of the British Government and that no encroachment shall be made by the said Government on the territory beyond to the north of the Vaal River, with the further assurance that the warmest wish of the British Government is to promote peace, free trade, and friendly intercourse with the emigrant farmers now inhabiting or who hereafter may inhabit that country; it being understood that this system of non-interference is binding upon both parties.

Should any misunderstanding hereafter arise as to the true meaning of the words "the Vaal River" this question in so far as regards the line from the source of that river over the Drakensberg shall be settled and adjusted by Commissioners chosen by both parties.

Her Majesty's Assistant Commissioners hereby disclaim all alliances whatever and with whomsoever of the coloured nations to the north of the Vaal River.

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\* Ratified by the Volksraad at Rustenburg, 18th March, 1852, Art. 10; for interpretation see V.R.R., March, 1853, Art. 14 (not published).

It is agreed that no slavery is or shall be permitted or practised in the country to the north of the Vaal River by the emigrant farmers.

Mutual facilities and liberties shall be afforded to traders and travellers on both sides of the Vaal River; it being understood that every wagon containing ammunition and firearms coming from the south side of the Vaal River shall produce a certificate signed by a British magistrate or other functionary duly authorised to grant such, and which shall state the quantities of such articles contained in said wagon, to the nearest magistrate north of the Vaal River, who shall act in the case as the regulations of the emigrant farmers direct.

It is agreed that no objection shall be made by any British authority against the emigrant Boers purchasing their supplies of ammunition in any of the British Colonies and possessions of South Africa, it being mutually understood that all trade in ammunition with the native tribes is prohibited both by the British Government and the emigrant farmers on both sides of the Vaal River.

It is agreed that so far as possible all criminals and other guilty parties who may fly from justice either way across the Vaal River shall be mutually delivered up if such should be required, and that the British Courts as well as those of the emigrant farmers shall be mutually open to each other for all legitimate processes and that summonses for witnesses sent either way across the Vaal River shall be backed by the magistrates, on each side of the same respectively, to compel the attendance of such witnesses when required.

It is agreed that certificates of marriage issued by the proper authorities of the emigrant farmers shall be held valid and sufficient to entitle children of such marriages to receive portions accruing to them in any British Colony or possession in South Africa.

It is agreed that any and every person now in possession of land and residing in British territory shall have free right and power to sell his said property and receive unmolested across the Vaal River and vice versa, it being distinctly understood that this arrangement does not comprehend criminals or debtors without providing for the payment of their just and lawful debts.

This done and signed at Sand River aforesaid, this 17th day of January, 1852.

(Signed) A. W. J. PRETORIUS, Commt.-Gen.  
H. S. LOMBARD, Landdrost.  
W. F. JOUBERT, C.G.  
G. J. KRUGER, Commandant.  
W. I. HOGGE, Assistant Commissioner.  
C. MOSTYN OWEN, Assistant Commissioner.  
J. N. GROBBELER, R.L.  
P. E. SCHOLTZ.  
P. G. WOLMARANS, Ouderling.  
J. A. VAN ASWEGEN, V.C.

A.D. 1852.]

*Sand River Convention.*

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F. J. J. BOTES.  
N. J. S. BASSON, V. Cornet.  
J. P. FURSTENBERG, Veld Cornet.  
J. P. PRETORIUS.  
J. H. GROBBELER.  
J. M. LEHMAN.  
P. SCHUTTE.  
J. C. KLOPPERS.

In presence of (sgd.)

JOHN BURNET,  
Clerk to the Civil Commissioner of Winburg.

(Signed) J. H. VISAGIE, Secretary.

## 1853.

## VOLKSRAAD RESOLUTION, 27th September, 1853.

Art. 105. § The Landdrosts of all districts are ordered to apply themselves more to the laws contained in the Resolutions of the Raad in order to be able to be of more assistance to the Raad; and on neglect of same incur a fine of 25 rix-dollars. †

Landdrosts to acquaint themselves with the laws.

## VOLKSRAAD RESOLUTION, November, 1853.

Art. 27.\* The Hon. Raad resolved that in case the aantekening of farms has not been written or stated clearly enough, then the owners of farms may have the same confirmed under oath by at least two respectable witnesses.

“Aantekeningen” may be proved by witnesses.

Art. 28. The Hon. Raad resolved that every person who henceforward causes farms to be aangetekend for himself by the Landdrost shall have to indicate a distinct feature on the ground applied for by him.

“Aantekeningen” to indicate distinct feature.

## VOLKSRAAD RESOLUTION, December, 1853. ‡

Art. 123. With reference to the ninth proposal to determine the age of majority, resolved to determine it for both sexes at twenty-one years. This is therefore a general law.

Age of majority.

§ As amended by V.R.R. December, 1853, Art. 119. Republished by Govt. Notice 67, 1877, and in *Staatskoerant* 1/3/93.

† One rix-dollar = 1s. 6d.

\* Aantekeningen for farms closed by V.R.R. 20/9/71, Art. 75 (not published).

‡ Erroneously published in *Lokale Wetten* as dated 21st November, 1853. Re-affirmed by V.R.R. 22nd September, 1866, Art. 175 (not published).

**1854.**

## VOLKSRAAD RESOLUTION, June, 1854.

Landdrosts to promulgate resolutions of the Volksraad. Art. 59.† The Landdrosts of each district are further ordered to send in at the first following session of the Raad all resolutions and laws of former years in their possession (onder hen bevindende). Every Landdrost shall be obliged to make known to his Field Cornet the resolutions of the Raad within twenty days after receipt, and, in case of negligence, shall forfeit a fine of twenty-five rix-dollars.

As also Field Cornets. Every Field Cornet shall also be obliged to make known to his public the resolutions of the Raad within fourteen days after receipt of same from the Landdrost on forfeiture of a fine of twenty-five rix-dollars.

† The publication of the *Staatskoerant* commenced in 1857. See V.R.R. 23/9/59, Art. 82 (*infra*).

**1859.**

## VOLKSRAAD RESOLUTION, 23rd September, 1859.

Art. 82.† Resolved that the Chairman shall be obliged before the Hon. Raad dissolves, to hand over to His Honour the President the Minutes kept of the Volksraad session, with all their appendices and draft laws, with instructions to make known these Minutes, with the appendices of same and draft laws, to the public in the *Goevernementskoerant* as soon as possible, His Honour the President remaining responsible for the good custody of all those documents.

Publication of  
minutes of  
Volksraad in  
*Goeverne-  
mentskoerant.*

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† As to promulgation see also Grondwet 1858, 1889, and 1896; V.R.R. 25/4/62, Art. 136 (*infra*); Different Standing Orders of Volksraad; V.R.R. 12/11/84, Art. 1319 (Instructions to Government to publish all laws and Volksraad resolutions—not published); F.V.R.R. 16/5/95, Art. 111 (Volksraad minutes to be distributed gratis amongst burghers—not published).

## 1860.

## CONVENTION between the South African Republic and the Republic of Lydenburg.

## APPENDIX

to Resolution of the Hon. Volksraad passed at Pretoria from the 3rd to 10th April, 1860.

Convention  
between S.A.  
Republic and  
Lydenburg.

Agreement between the Government of the South African Republic and the Republic of Lydenburg to establish the union of both States, commenced on 26th February, and concluded at Rustenburg on 23rd November, 1859.

Boundaries.

1. Regarding the question of boundaries it is decided that the line of demarcation between the South African Republic and the Republic of Lydenburg shall be the Olifants River up to where it runs into the Rhenoster River, and the Rhenoster River up to its source, and from there with a straight line up to the hill (kop) on Vaal River where the uppermost transport road from Potchefstroom crosses towards Buffel River.

Farms  
"aangetee-  
kend."

The farms already taken and aangetekend on both sides of that line before the date hereof (28th February, 1859) shall remain the property of the owners, that is to say according to the date of the aantekening of same; the line further runs from that hill (kop) on the Vaal River along the spruit of Vaal River (Kapok River) up to where the general great wagon drift of the road from Lydenburg to Natal crosses the river; and from there with a straight line to the round hill (kop) which is situate between the spruits of the Pongola River on the boundary of Utrecht, set out in the resolutions taken at Utrecht, dated 13th August, 1859. This boundary has been set out and fixed on 20th September, 1859, at Pretoria. After the establishment of this union by the combined Volksraad, the above boundary shall become a district boundary.

District  
Utrecht.

2. Regarding the questions in the District Utrecht, see the decision thereon in the resolutions, *re* union, of February and March, 1859, as also the combined Executive Council Resolutions dated Utrecht, July and August, 1859, all approved of by the Volksraad on both sides according to their resolutions dated Pretoria, September, and Lydenburg, October, 1859.

Sentence on  
Volksraad  
members of  
Lydenburg  
cancelled.

3. As regards the matter in dispute in consequence of the resolution and sentence of the Commission, Volksraad members of Lydenburg, in November, 1854, mentioned and appearing in the Volksraad Resolutions at Pienaars River, dated September, 1855, it is resolved that the whole matter shall be considered as not to have taken place, with this proviso that all persons concerned therein shall be reinstated in their full honour and reputation and maintained therein, and that no

person shall reproach, insult, or institute prosecutions of whatsoever nature against any other person as regards that matter, on pain of fine according to the nature of the case.

4.\* It is resolved that Lydenburg, as far as its present territory extends, shall retain its own free local administration and laws, and that although united under a general law and administration, it shall at all times retain the right, as far as local laws are concerned, to have a District Council for the purpose of regulating the matters and interests of the districts in that territory and its inhabitants, which (Council-Tr.) shall for that purpose make and issue the necessary laws and regulations; all such laws shall however be submitted to the approval of the Executive Council and Volksraad before they shall be recognised as permanent district laws.

Lydenburg to retain its own local administration and law and District Council.

If the State President pays a visit to the Lydenburg territory he shall have the right and the power to call upon the District Council to hold meetings and to cause them then and there to give an account of their actions (gedane verrichtingen).

President's visits to Lydenburg.

As to general matters of state (landszaken) the Lydenburg districts and inhabitants shall however fall under the general law of the State, and just as all inhabitants participate in all rights and serve and maintain the general State according to the general laws of the State.

Lydenburg to fall under general law of State.

The President may further, should he so desire during his stay in the Lydenburg territory, convene that District Council in order to regulate in his presence, and with his co-operation, all local interests of those districts, when the President may sit in that District Council as Chairman of that Council.

Before the session of the combined Volksraad a register with elucidations thereon from both sides shall further be sent in and determined by the first combined Volksraad containing and defining what is understood by and included in the words local administration and laws, in order that the District Council may know according to that register which matters may be dealt with by them.

5. Resolved that all laws and resolutions from 1st August, 1845, up to the date of the establishment of this union by the Volksraad, and the further administration by the Government of that time and by the at present still existing Government of Ohrigstad and Lydenburg as regards the granting, purchasing, and selling of grounds and everything relating thereto, shall remain in its full force and effect, and that no alteration shall be made therein to the detriment of the present inhabitants or owners of rights; that however as regards the granting of grounds and everything relating thereto belonging to the State of Lydenburg, such alterations and amendments can and may be made subsequent to the establishment hereof in favour of later immigrants (inkomende inwoners) as time

Lydenburg laws as to ground and title to remain of full force.

Subsequent alterations.

\* See V.R.R. 5/11/68, Art. 241 (Art. 4 of the Convention cannot be observed as Lydenburg has no separate district laws—not published).

and circumstances shall render necessary; such alterations or amendments however shall not be made or determined without the co-operation and approval of the existing District Council, mentioned in article *four*, and further with approval of the inhabitants of the present Lydenburg territory, according to the right of approval or disapproval which they possess according to the general laws.

Occupation of  
open ground.

6. Resolved that the open-lying grounds of Lydenburg shall continually be put open in sections (*stuksgewijze*) for general occupation, but such shall be done on proposal of the District Council mentioned in article *four*, or of the combined Executive Council in any case however by resolution of the Executive Council and the District Council retains\* the right to send in its explanations or remarks as to same; if there are farms in such portion which have already been *aangetekend* for inhabitants of Lydenburg or which have already been disposed of by the Government, such shall remain valid, and such areas of ground shall then be open for *aantekening* of farms to all persons resident within or outside Lydenburg territory for burgher rights for which they still have to receive farms. These *aantekeningen* take place at the office of the Landdrost of the district in which such ground falls. At the time when such ground is declared open it shall be determined within what time such farms must be occupied, or the owners must reside in the Lydenburg territory. And on non-compliance therewith, without extension of time being specially granted by the Executive Council, such farms shall again be assigned to subsequent petitioners on the same conditions, and in this manner portions of ground shall continually be set open for *aantekening* and occupation for the general welfare of the whole Republic.

Farms to be  
occupied.

If the Executive Council deems it expedient it may keep out one or more farms for the benefit of the district in which such ground falls and for which it is required.

Volkraad  
members for  
Lydenburg.

7. Resolved that the District Lydenburg is entitled to elect nine members for the Volksraad; out of those nine members six shall attend the Volksraad sessions according to law.

Ned. Gere-  
formeerde  
Kerk.

8. Resolved that the Nederduitsche Hervormde Gereformeerde Gemeente at present existing in the Lydenburg territory, or afterwards still to be established, shall collectively as well as each separately remain free in the matters of religion and church administration, and shall never be compelled by the other communities existing beyond the Lydenburg territory to organise their church administration in accordance with that of the former.

The said communities in the Lydenburg territory shall however be obliged to conform with the provisions contained in sections *fifteen* and *sixteen* of the Grondwet, dated Lydenburg, 26th September, 1853.

Original and copy whereof is hereto attached.

\* In Lokale Wetten the word "besluit" should clearly be "behoudt."

9. Resolved that the due payment of the general debt of the country incurred in former times by the joint Volksraad shall be made jointly in proportion. As regards the debt of Lydenburg according to the Resolutions of the Volksraad of the Republic of Lydenburg passed thereanent, these debts are guaranteed by the combined government as to be paid by Lydenburg. Every State or district shall pay its own debt, but no grounds or moneys may be taken from the one State or district in order to pay therewith the debts of the other States or districts.

Payment of  
State and  
district debts.

10. Resolved that every inhabitant of the whole State is bound in time of war to serve the State in such war.

Military  
service.

It is resolved that if some inhabitants without lawful causes wantonly bring about war with the white population of the neighbouring States, or by committing illegal acts in their territory, or towards their subjects give the Governments of a neighbouring State or States lawful reasons to threaten our Republic with a war, or to attack the same, then in such cases the inhabitants of the united State may not be forced or compelled to take part in such a war.

The inhabitants who bring about or attempt to bring about such a war, or give occasion thereto, shall be punished according to the laws.

But in all other cases when the said neighbouring Governments commence such a war with the aim and object to oppress or absorb our Republic, or if our Government on account of the oppression of this Republic or its inhabitants is compelled to make war against the said States, then all inhabitants of the whole Republic shall be obliged to take part in such a war, in accordance with the laws of the State.

Mutual  
assistance in  
case of war.

11. Resolved that as to what has been done by the Governments of both States from 12th March, 1856, up to the date of the establishment of the union, both within or outside the country, each Government or party shall themselves remain responsible for what has been done by them.

Responsibility  
for acts of  
State.

12. Resolved that all the State documents at the Lydenburg office, now there, shall not be taken away therefrom.

State  
documents to  
remain at  
Lydenburg.

Copies shall however at all times be given at the request of the Government against payment according to law.

13. Resolved that the debts of Lydenburg may or shall be paid at the office of the districts of the territory of Lydenburg, according to article *nine*, and further that all debts which are incurred by those State offices or Landdrost offices according to law shall also be paid by those State treasuries or Landdrosts respectively, but the moneys appertaining to the general treasury according to law for the maintenance of the whole general State must in perpetuity in accordance with justice and law be handed over to the Government or the general treasury.

Payment of  
Lydenburg  
liabilities.

14. Resolved that at the time of the constituting of this union, the seat of Government shall be established at Pretoria.

Pretoria  
seat of  
Government.

Members of  
Executive  
Council for  
Lydenburg.

15. Resolved that Lydenburg has the full right to elect two members of the Executive Council, one of whom shall be obliged to attend the meeting continuously.

Postal service.

16. Resolved that a permanent postal service for letters be established without delay.

Commandant-  
General.

17. Resolved that the Commandant-General for the Lydenburg territory shall remain in accordance with previous appointment, and that he shall take the oath of office in accordance with the Grondwet; and further that endeavours shall be made by the United Executive Council, after the establishment of the union, to appoint (behouden) with the approval of the public one Commandant-General only for the whole Republic.

Appointment  
of Landdrost  
of Pretoria.

18. The Landdrost of the place which is the seat of the Government shall be appointed by the Volksraad at the proposal of the Executive Council. In order to be eligible thereto it shall not be necessary to have already been a burgher of this State for some time. The enactment of this article is left to the decision of the united Volksraad.

Promise of  
mutual good  
faith.

19. Resolved that if union is established there shall be a mutual obligation to comply fully and faithfully with all the conditions of this union. And if infringements of one or more articles are made by the Government or through pressure by the inhabitants of one of the two now existing Republics, and the same are thereby violated, then this union shall not thereby be broken or dissolved, but those who have infringed the same shall be punished according to law; the articles which have been infringed or which have been violated retain however their full force.

Sentence of  
J. A. Smellen-  
kamp  
cancelled.

20. Resolved, with reference to the matter of Mr. J. A. Smellenkamp, who was, on the 17th June, 1854, sentenced by the Volksraad to the payment of a fine of 500 rix-dollars on account of insulting expressions used against the Rev. D. van der Hoff and Kerkeraad, that taking into consideration that said sentence has become one of the causes why an estrangement has arisen in this commonwealth (maatschappij) the said 500 rix-dollars shall be returned to the said Mr. J. A. Smellenkamp, and that from the date hereof (23rd November, 1859) he shall be relieved from the sentence of the Landdrost of Potchefstroom, dated 11th July, 1854, by which he was banished from this Republic, and that from to-day (23rd November, 1859) no person whoever he may be shall bring any of these matters in dispute or suit. The fine of 500 rix-dollars shall be paid by both States jointly according to article *nine* of this agreement.

The member, H. Buhrmann, abstained from voting when this article was dealt with on the ground that he is agent in the matter of Mr. J. A. Smellenkamp.

Grondwet of  
S.A.R.  
adopted.

21. Resolved that the Grondwet of the South African Republic be adopted in so far as the same is not in conflict with one of the preceding or following conditions of union.

22. Resolved that all amendments which can still be made in the Grondwet or other laws shall be effected therein without delay. Amendments of same.

23. Resolved that the existing flag of the South African Republic be adopted as the general flag of the State, but that the District Lydenburg shall retain a district flag which is also not in conflict with the State flag, and that, if desired, a district flag shall be granted to each district of the whole State, in accordance with the requirements of the State flag. State flag.

24. Resolved that the Government of the South African Republic and of the Republic Lydenburg shall make provision that this union is as speedily as possible notified to the public, and submitted for confirmation to the united Volksraad, at the confirmation of which the union of the States will be fully constituted. Promulgation of union.

25. Resolved and determined that whereas this union between the South African Republic and Lydenburg has again been happily established under many difficulties, it shall not be permitted or tolerated that the now existing peace be disturbed by any person, whoever he may be, and that in order to prevent such it is enacted that no person shall have the right to revive disputes previously existing and everything relating thereto, and whoever attempts to disturb the peace in such manner shall be punished from 25 to 500 rix-dollars or otherwise according to the nature of the case. Maintenance of peace.

26. Resolved to convene the united Volksraad whose session shall take place at Pretoria on the first Monday in April, 1860, and the members of both sides shall be present at the Landdrost office at 10 o'clock in the morning. Volksraad convened.

Thus done in accordance with Volksraad resolutions of both sides, and the minutes of our meeting here.

Landdrost Office, Rustenburg, 24th November, 1859.

M. W. PRETORIUS, President.

W. C. J. VAN RENSBURG.

J. H. GROBLER.

H. F. BUHRMANN, G.S.

P. J. COETSER.

C. VILJOEN.

A. F. SCHUBART, Govt. Secretary.

Approved and signed this day, the 4th April, 1860, at Pretoria, by the united Volksraad of the South African Republic and of Lydenburg.

D. BOTHA, *Chairman.* J. N. GROBLER, *Chairman.*

F. G. WOLMARANS. P. J. D. STEENKAMP.

J. H. R. LEMMER. J. J. MALAN.

J. P. MARE. J. VAN WIJK.

J. H. VENTER. S. P. BOTHA.

J. H. W. PRETORIUS. W. STEENKAMP.

J. H. DUVENAGE. J. H. JACOBS.

D. S. D. DU PLESSIS. J. H. BREITENBACH.

L. M. BRONKHORST. F. R. JANSSEN VAN RENSBURG.

T. F. J. STEYN. J. M. DE BEER.

J. H. GROBLER.            A. B. JOUBERT.  
G. SMIT.                    G. C. SCHOEMAN.  
C. GROBLER.  
P. J. VAN STADEN.  
J. J. P. PRINSLOO.

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## GOVERNMENT NOTICE, 26th April, 1860.

Pretoria seat  
of Govern-  
ment.

Notice is hereby given to the public that according to article *seven* of the Grondwet and further Resolution (see article *forty-three*) by the Hon. Volksraad passed at Pretoria on the 9th April last;

The seat of Government shall be established at Pretoria from 1st May, 1860, and therefore all correspondence, etc., addressed to His Honour the Acting President and Executive Council must from the 1st of May next be sent to Pretoria.

**1862.**

## VOLKSRAAD RESOLUTION, 25th April, 1862.

Art. 136.\* The Acting President of the Executive Council is instructed to cause to be sent to all officials and members of the Hon. Volksraad one copy and to the Field Cornets as many printed copies as possible of the Minutes of this Volksraad session in order that everything may become well known amongst the inhabitants of this Republic.

Distribution  
of Volksraad  
minutes.

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\* See footnote to V.R.R. 23/9/59, Art. 82 (*infra*).

**1863.**

## GOVERNMENT NOTICE.

Prohibition  
of duels.

Whereas it has come to the knowledge of the Acting President that some persons, inhabitants of this Republic, have dared to challenge their fellow citizens to a duel or single combat out of which murder may result;

Therefore all inhabitants of this Republic are hereby notified that by resolution of the Hon. Executive Council† all duels or single combats are most strictly forbidden; whosoever challenges another person to a duel, and it be proved against him in a Court, shall be fined with not less than 1,000 rix-dollars or imprisonment according to the nature of the case, and every person, whoever he may be, who accepts (gevolg geeft) such a challenge shall be punished with the same fine as the challenger.

Let everybody be warned.

Thus done at the Government Office, Pretoria, on the 23rd July, 1863.

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† Confirmed by V.R.R. 19/10/63, Art. 83 (not published).

**1864.**

## VOLKSRAAD RESOLUTION, 29th September, 1864.

Art. 141.† Proposed to instruct the Executive Council to order the Field Cornets: “When inspections commence, to inspect for the Government, before the commencement of every inspection, all open ground which has not been ‘aangetekend,’ until the State debt shall be covered.”

Open ground to be inspected for Government.

Accepted.

## VOLKSRAAD RESOLUTION, 29th September, 1864.

Art. 143.§ Resolved that all grounds and farms a lawful claim to which cannot be proved by any burgher shall be declared as lapsed to the Government, and that the same shall be dealt with in accordance with the preceding article.\*

Open ground lapsed to Government.

† See V.R.R. 29/9/64, Art. 143 (*infra*); V.R.R. 20/7/83, Artt. 850 and 853 (*infra*).

§ See V.R.R. 29/9/64, Art. 141 (*supra*).

\* Art. 142 is repealed by Tr. Pr. 34, 1901.

**1866.**

## VOLKSRAAD RESOLUTION, 23rd October, 1866.

Outspans not  
to be sold but  
may be leased.

Art. 514. "The Raad resolves that absolutely no grounds belonging to public outspans shall be sold, but that the Executive Council be authorised to lease a certain piece of ground on (aan) the said outspan to the petitioner for a certain period for the purpose of keeping a ferry or boat on the Buffels River under such regulations and conditions as may be fixed by His Honour (the President-Tr.)

"The Executive Council is hereby further authorised to act in the same manner in other similar cases which may arise."

## VOLKSRAAD RESOLUTION, 25th October, 1866.

Quitrent.

Art. 561. The Raad resolves that quitrent on every farm or erf shall be paid from the date that transfer of such ground was obtainable.

## 1868.

## VOLKSRAAD RESOLUTION, 26th November, 1868.

Art. 318. On the order recommendation for increase of tax on farms,

Taxes on  
freehold and  
quittrent  
farms.

“ His Honour the State President lays before the Commission a recommendation how to meet the sum of about £15,000, being the amount by which the expenditure exceeds the revenue (see Annexure A).

“ The Commission cannot quite agree with the recommendation of His Honour the State President, but resolves to recommend to the Hon. Volksraad to levy a tax of ten shillings\* per annum on the freehold (eigendoms) farms registered in the different Landdrost offices according to Volksraad Resolution of 1858; and to tax all other farms from £1 10s. to £3; and that farms belonging to persons residing beyond the Republic shall be taxed from £3 to £6.

“ The Volksraad agrees with the first portion of the report relating to the freehold farms granted to burghers in terms of article *one hundred and ninety-five* of the Grondwet and article *twenty-eight*† of Volksraad Resolutions of 23rd September, 1858, and article *seventy-five*‡ of Volksraad Resolutions of 22nd September, 1859, which law can only be applied to burghers who were resident in this Republic on 22nd September, 1859. Resolved further to instruct the State President to have those three laws published in the *Staatskoerant* as notice, and instructing the burghers who, according to that law, are entitled to a freehold farm to notify their names to the Landdrost of the district, and to prove if it be deemed necessary that they are entitled to a freehold farm according to that law, and that they shall then immediately have the farm which they desire as freehold farm registered; for each such registration five shillings shall be paid.

Titles to  
freehold  
farms.

“ Should any person not yet have a farm which he can or desires to have registered, such person may have his name noted only (optekenen). The Landdrosts shall frame a book of the same, and shall transmit a duplicate of same to the Registrar of Deeds.

“ All persons who shall not within twelve months from such notice in the *Staatskoerant* have sent in their names shall thereafter no longer be entitled thereto.

“ And all farms which are not already registered or about to be registered in the district in which they are situate as aforesaid shall without distinction be noted as quittrent farms.”

\* See V.R.R. 5/6/76, Art. 105 (*infra*); V.R.R. 7/6/76, Art. 107 (a) (*infra*).

† Repealed by Tr. Pr. 34, 1901.

‡ *Ibid.*

## VOLKSRAAD RESOLUTION, 27th November, 1868.

Amount of  
quitrent.

Art. 319. ‡ On the order the recommendation for the increase of taxes on farms,

The Raad, after mature consideration, and recognising the impossibility of an assessment and the expenditure to the Government arising therefrom, agrees to tax each quitrent farm without distinction at £1 10s. per annum.

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‡ See V.R.R. 5/6/76, Art. 105 (*infra*); V.R.R. July, 1882, Artt. 743 and 755 (*infra*).

**1869.**

VOLKSRAAD RESOLUTIONS, 5th June, 1869.

Art. 154. § On the order the Commission Report in connection with article *one hundred and thirty-five* of these Resolutions, dated 1st June, 1869, and the first item thereof reading:—

Amendment of titles of quitrent farms.

“That the title deeds and form as are at present issued for quitrent farms cannot be altered by it otherwise than to change the word *quitrent* (erfpacht) into *ownership* (eigendom), the word *grant* (vergunning) into *cession* (afstand), and also the word *granted* (geschonken) into *ceded* (afgestaan).”

The first item of the report accepted by a majority.

155. On the order the second item of the Commission report reading

The Commission is of opinion that the title deeds of freehold farms be altered in accordance with the accompanying form:—

Amendment of titles of freehold farms.

FORM OF TITLE DEEDS OF FREEHOLD FARMS

By His Honour the State President of the South African Republic in South Africa in the name and on behalf of the Government of the said State.

Hereby is ceded (afgestaan) in full and free ownership to....., certain farm or piece of land called....., situate in the District of....., in the Fieldcornetcy of....., in extent approximately (naar gissing)....., further defined and bounded as shall appear from the annexed copy of inspection report dated the..... and signed by..... and from attached sketch.

This property is ceded (afgestaan) on condition that all roads over this land made by lawful authority shall remain free and unobstructed; that this property shall be subject to an outspan for travellers to be pointed out by the owner; that the said property shall further be subject to such provisions as are laid down in regard thereto by the Grondwet of this State; and finally that the owner shall be bound to pay an unincreasable annual contribution of the amount of ten shillings.

Given under my hand and the public seal of the South African Republic at..... on the..... day of..... in the year of Our Lord One thousand Eight hundred and.....

.....  
State President of S.A. Republic.

§ See Ord. No. 18, 1904.

Registered at the office of the Registrar of Deeds at Pretoria on the.....day of....., Eighteen hundred.....

.....  
Registrar of Deeds.

The Raad resolves to approve the second item of the Commission Report as to title deeds.\*

Art. 156. On the order the third item of the Commission Report reading

“And the Commission recommends to the Volksraad to resolve that all title deeds and transfers already issued may, if desired, be altered in accordance with the accompanying form on payment of.....”

The Raad resolves to approve of the third item of the Commission report with addition of the words “ten shillings” after the words “payment of.”

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\* Words underlined are omitted in Lokale Wetten.

## 1870.

\* LAW 2, 1870.

## ON GRASS-BURNING.

(Approved and enacted by Volksraad Resolution dated 11th May, 1870. Articles 57-61.)

1. It shall be lawful for any person to set fire to the grass on his farm or farms within this State, provided that he takes care that the veld of his neighbour is not thereby set on fire or damage occasioned to the latter's farm or property, in which latter case the person causing (such damage—Trs.) shall be fined an amount of not less than £5 sterling, and not exceeding £20 sterling or imprisonment with or without hard labour for a period not exceeding three months for each contravention.

Grass burning permitted under certain conditions.

Penalties in case of damage caused to neighbour.

2.† If any person (not being the owner or a person lawfully in occupation of land or acting under the authority of such owner or person) shall maliciously or negligently set fire to grass upon such land he shall be liable to a fine not exceeding one hundred pounds (£100) or in default of payment to imprisonment with or without hard labour for a period not exceeding one year or to both such fine and imprisonment.

Malicious or negligent grass burning.

3. Should the owner or occupier of any farm suffer any damage in consequence of the burning of grass, the person who has caused the same, or by reason of whose negligence or carelessness the same occurred, shall be bound to make good such damage notwithstanding that he has been punished under the provisions of this law.

Offender to make good damage.

4. This law shall come into operation‡ according to the provisions of article *sixty-nine*§ of the Grondwet.

\* Published in *Staatskoerant*, 1870, as Law 3, 1870.

† This article has been substituted by Act 16, 1908, Sec. 10.

‡ The words in the law as published and in the *Lokale Wetten* are "zal in werking treden"; in the published minutes of the Volksraad, however, the words "zal kracht van wet hebben" are used.

§ This article reads as follows:—As soon as the President of the Executive Council has received the notification from the Volksraad that the proposed law has been accepted, he shall cause such law to be made known within two months and, after the expiration of a month calculated from the general notification, provide for the carrying out of the same.

## VOLKSRAAD RESOLUTION, 25th May, 1870.

Acquiescence  
in Keate  
award  
(boundary  
with O.F.  
State).

124. The Volksraad of the South African Republic, having seen the decision of His Excellency the Lieutenant-Governor of Natal with reference to the boundary line between the Orange Free State and the South African Republic, acquiesces in the award of His Excellency, in accordance with the Deed of Submission signed on behalf of both said Governments, and instructs His Honour the State President to proclaim the said line (\*).

The Volksraad approves Executive Council Resolution dated 20th May, 1870, article *eighteen*, as regards the erection of beacons by the Surveyor-General of Natal.

Boundary line  
between S.A.R.  
and O.F.S.

\* Extract from the award of Lieutenant-Governor Keate dated Pietermaritzburg, 19th February, 1870, published in the *Staatskoerant*, 31st May, 1870, as follows:—

“ . . . It is therefore my award, order, and decision that from now and henceforth the boundary line between the South African Republic and Orange Free State at the point where it was left to arbitration by the Convention\* of the 18th January, 1852, shall commence at a point on the boundary line of the Colony Natal immediately above and adjoining the source of the stream called Gansvallei, which has its source at the shortest distance from the northern beacon of the said Colony, from there down the said stream to its confluence with the Klip River, and from there along the course of the Klip River to where it joins the Vaal River.”

\* Sand River Convention (*supra*).

## 1871.

## LAW No. 2, 1871.†

## ORDINANCE

CONTAINING ENACTMENT AND REGULATIONS AS TO LICENCES, STAMP DUES, OFFICE FEES AND CHARGES TO WHICH THE SEVERAL PERSONS APPOINTED OR ADMITTED BY GOVERNMENT SHALL BE ENTITLED.

(Enacted by Volksraad Resolution, Article 305, dated 8th November, and Article 426a, dated 2nd December, 1871.)

Whereas it is deemed necessary to determine the mode of collecting licences, office fees and charges in this Republic, and to make provision for any contravention thereof;

Now therefore the Hon. Volksraad in its session held at Pretoria in September, 1871, and subsequent days has enacted and resolved:—

1. This Ordinance shall come into operation after publication, and the hereinafter-mentioned moneys for licences, stamp dues, office fees and charges shall thereupon be levied by the official authorised to do so. Operation.

2. *Superseded by Law No. 21, 1898, article two.*

3. *Superseded by Law No. 21, 1898, article three.*

4. *Superseded by Law No. 21, 1898, article eleven.*

5. *Superseded by Law No. 2, 1881, articles one and two, and by Act 15, 1909.*

6. *Superseded by Law No. 2, 1881, article four.*

7. *Repealed by Transvaal Proclamation No. 12, 1902, section two.*

8. *Superseded by Law No. 9, 1891, and regulations under Transvaal Proclamation 10, 1902.*

9. *Repealed by Transvaal Proclamation 28, 1902, section one hundred and thirty-six.*

10. *Superseded by Law No. 8, 1883.*

11. *Superseded by Law No. 13, 1880.*

12. *Superseded by Law No. 8, 1883.*

13. *Superseded by Law No. 8, 1883.*

14. *Superseded by Law No. 8, 1883.*

15. *Superseded by Law No. 8, 1883.*

16. Notaries public.

For drawing up and making a copy of bond without security ... .. £0 10 6

Ditto, with security ... .. 0 15 0

Drawing up and passing a will for one person ... .. 0 7 0

Ditto for an ordinary mutual will ... .. 0 10 6

Ditto for an extraordinary mutual will ... .. 1 1 0

(One-third more if done at night.)

Copy of a sealed will ... .. 0 5 0

Deed of gift, *mortis causa* ... .. 0 15 0

† See V.R.R. 5th November, 1881, Art 350 (re-enacting Law No. 2, 1871, as to legal tariff.

General power of attorney ... ..	£1 1 0
Special power of attorney ... from 2s. 6d. to	0 10 6
General power of attorney for persons abroad from	
£1 1s. to	2 2 0
Special power of attorney ... from 10s. 6d. to	1 1 0
Bills of exchange ... ..	0 7 6
Deed of surrogation and substitution, from 10s. 6d. to	2 2 0
Deed of sealing ... ..	0 5 3
Inventory of estates, first page... ..	0 10 0
Every following thirty lines of thirty letters to the	
line ... ..	0 1 6
Contracts of purchase, lease or otherwise,	
from £1 1s. to	2 2 0
Accounts of estates, protests, assignation, revoca-	
tions, deeds of cession, written declarations, and	
certificates ... .. from £1 1s. to	2 2 0
Signing antenuptial contract ... from £1 1s. to	5 5 0
Signing or authenticating any document, with or	
without witnesses ... .. from 1s. to	0 5 0
All other deeds not above mentioned, according to the	
length thereof ... .. from 10s. 6d. to	3 3 0
(This includes the necessary copies, but does	
not include the stamps or the costs of	
attendance or travelling expenses when the	
deeds are not passed at the office of the	
notary.)	
For attendance within the town or village ... ..	0 5 0
Ditto outside the town or village, per hour there	
and back ... ..	0 5 0
Ditto, at night, double.	
Horse hire, per day of six hours ... ..	0 15 0
Taxation. The accounts of the notaries shall, if so desired, be taxed	
by the Landdrost of the district where they reside.	

*Sworn Translators.*

17.

Fees of  
sworn  
translators.

Translating ordinary acknowledgment of debts ...	£0 2 6
Translating a letter or other document of one page	
of 100 words or less ... ..	0 4 6
Every following page ... ..	0 1 0
Acting as interpreter in every case, per hour ...	0 4 6
Not to exceed per day ... ..	1 1 0
(No translation shall be delivered by a sworn	
translator without a stamp of 9d.)	

18. *Repealed by Law No. 8, 1881, and by Law No. 12, 1886.*

19. § Allowance for various persons:—

Hire of a wagon with eight horses, per day of six	
hours ... .. from £1 to	1 2 6

§ As to witness expenses in civil cases, superseded by Law No. 8, 1883 (repealed); as to witness expenses in criminal cases, superseded by Law No. 7, 1888 (repealed).

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Hire of a wagon, with oxen and leader and driver,				
per day of eight hours ... ..	from 12s. to	£0	15	0
Hire of a saddle horse per hour ... ..		0	2	0
Hire of a man on horseback, per hour ... ..		0	4	0
Conduct of arrested criminals on foot, for each man				
per hour ... ..	from 1s. 6d. to	0	3	0
Ditto, ditto, on horseback, per day ... ..		0	12	0

## LAW No. 3, 1871.||

## MARRIAGE ORDINANCE.

(Approved and enacted by Volksraad Resolution of 9th and 10th November, 1871, Articles 308-334.)

- Publication of banns. 1. *Repealed by Act 13, 1909, section one, and new provisions made.*
- Marriage officers. 2. *Repealed by Act 13, 1909, section one, and new provisions made.*
- Marriage by special licence. 3. ‡ *Repealed by Act 13, 1909, section one, and new provisions made.*
- Provisions regarding marriage by special licence. 4. † Persons desiring to be married by licence in accordance with the foregoing article shall appear before the Landdrost, declare their names, and answer\* such questions as the said official shall see fit to put to them for the purpose of satisfying himself
- Consent in case of minority. (1) that, in case of minority, the consent of the parents or guardians has been obtained;
- Certificate of re-marriage. (2) that, if one of the intending spouses was previously married and there are children born of such marriage, a certificate of re-marriage, signed by the Orphan Master, shall be produced to the effect that the hereditary portions of such children have been secured or paid out; and
- Prohibited degrees of blood-relationship. (3) that they, the intending spouses, are not related to one another within the prohibited degrees of blood-relationship or affinity, and that there are no other legal impediments to the intended marriage.

Under the prohibited degrees of blood-relationship are included

- (a) all persons in the ascending and descending line *ad infinitum*, and in the collateral line to the third degree inclusive, consequently uncle and niece, aunt and nephew, whether by blood or marriage;

|| As to legalization of certain marriages see Govt. Notice No. 5, 22/3/81 (*infra*); V.R.R. 15/5/83, Art. 74 (*infra*); V.R.R. 7/5/85, Art. 53 (*infra*); Trans. Proc. No. 31, 1202; Ordinance No. 26, 1902; Ordinance No. 33, 1905; Act No. 13, 1909, Section 11.

‡ Previously amended by Law No. 22, 1894, Art. 6, and by Tr. Pr. 2, 1901, Sec. 1.

† The last paragraph of Art. 4 (as to persons who have not as yet resided in the State for one year) has been repealed by Ord. 40, 1903, Sec. 1.

\* The word *answer* (antwoorden) occurring in Lokale Wetten does not appear in the minutes or publication in *Staatskoerant*.

- (b) first cousins when both the parents of the one are related to both the parents of the other as own brothers and sisters.

5. The Landdrost shall have the right, if he considers that he has grounds for suspecting anything illegal in the marriage which the persons aforesaid desire to enter into, and that they are concealing the true facts of the case, to examine them, or one of them, under oath, or also to examine other persons under oath in regard thereto if he desires to do so.

Examination on oath by Landdrost.

6. *Repealed by Act 13, 1909, section one, and new provisions made.*

Record and report by Landdrost.

7. If the banns of any marriage shall have been published, as provided by article *one*, or a special licence shall have been obtained, and such marriage shall not have been solemnized within three months after the last publication or after the date of the licence, such publication or licence shall no longer be considered as of force, but everything shall take place afresh just as though nothing had been done in regard thereto.

Banns or licence lapse after three months.

8. If any person acknowledges to be a minor, or if from any other information there are good grounds for considering him or her to be such, and he or she cannot produce the consent of father or guardian, or in case a widower or widow wishes to re-marry and minor heirs are left for whose father's or mother's portion of the inheritance proper security (*bewijs*) shall not have been given according to law, according to certificate from the Orphan Master or other official authorised by law thereto, or if it shall be known that the persons who seek to be joined together in matrimony are related to one another within one of the prohibited degrees of blood relationship, or that they have come from beyond the borders of this State for the express purpose of being married here because they would not have been able to effect such in the place where they reside, or the publication of the banns shall not have taken place, or a special licence shall not have been granted as provided by law, or if it shall be known, or if, by enquiry in the manner provided by article *five*, or in any other lawful manner it might have been learned *\*it shall not be lawful to solemnize a marriage of such a person, and any magistrate or marriage officer who, in such events, solemnizes such a marriage shall be liable on conviction to a fine not exceeding fifty pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding six months.*

When marriage cannot be lawfully solemnized.

Penalty for solemnizing unlawful marriage.

9. *Repealed by Transvaal Proclamation No. 34 of 1901.*

Marriages of widows and widowers.

10. *Repealed by Act No. 13, 1909, section one and new provisions made.*

Bigamy.

11. *Repealed by Ordinance No. 39, 1904, section two.*

Persons residing in State marrying abroad.

\* The words in italics have been substituted by Act. 13 1909, Sec. 5.

Solemnization  
of marriage.

12.‡ In consecrating or solemnizing every marriage, the minister as aforesaid shall follow the formulary in use in his church communion, but in the solemnization of any marriage before the Landdrost (that official shall—Tr.) put the following questions to the bridegroom and bride separately, to which they shall answer “yes” :—

Do you, A B, declare solemnly that as far as you are aware there exists no impediment whatever to your intended marriage with C D, here present, and that you call all present to witness that you acknowledge C D to be your lawful wife (or husband)?

Thereupon they shall give each other the right hand and the Landdrost shall declare the marriage solemnized in these words :—

I declare that A B and C D here present are in the eye of the civil law lawfully joined together in matrimony.

Hours for  
marriage.

13. No marriage shall be solemnized except between eight o'clock in the morning and four o'clock in the afternoon, and such in any church or other public building (used—Tr.) for religious service, public office or private dwelling-house with open doors, and in the presence of at least two persons competent by law to act as witnesses; only in unforeseen circumstances shall it be permitted to solemnize marriages outside the hours provided.

Marriage  
register and  
certificate.

14. Immediately after the solemnization of the marriage and before the married persons leave the room, the minister or the Landdrost aforesaid, before whom such marriage has been solemnized, shall faithfully enter the necessary particulars and shall write the names of the married persons in full in an original and duplicate marriage register in accordance with the form given here below, and thereupon they, with two competent witnesses, as well as the minister or Landdrost aforesaid shall sign the same; the original register shall be kept at or in the office of the official who shall have solemnized the marriage, and the duplicate he shall forward to the *Registrar-General*† within the time of one month. The married persons or any other person shall be entitled, on payment of 2s. 6d., to demand duly certified copies of each, and every copy of such original or duplicate marriage register certified by the official or minister before whom the marriage shall have been solemnized, or his lawful successor, or by the *Registrar-General*,† shall in every court of law within this State where such may be required be accepted as sufficient proof of the legal solemnization of such marriage unless the contrary be proved.

15. Marriage solemnized at \_\_\_\_\_, in the District of \_\_\_\_\_

‡ See F.V.R.R. 10/12/96, Art. 2286 (*infra*); Govt. Notice No. 141, 1895 (*infra*); Trans. Proc. No. 21, 1901; see Trans. Proc. No. 22, 1901, Section 5, as to marriages in burgher camps; Govt. Notice No. 71, 1901 (appointment as marriage officers of all ministers who held appointments from Government of S.A.R.).

† As amended by Ordinance 19, 1906, Sec. 35.

FORM.

No.	When Married.	Full Names and Surnames of Persons Married.	Age.	Where Born.	Personal Status.	With or Without Antenuptial Contract.	Residence at time of Marriage.	After Publication of Banns or by Licence.	With whose Consent.	Remarks.

This marriage was entered into between us  
 and solemnized by me, Landdrost,  
 or minister at on the  
 day of

In presence of the undersigned witnesses :

16. If a minor cannot obtain the consent of parents or guardians to enter into a marriage owing to insurmountable difficulties, such as protracted absence of the same from the State or other unforeseen impediment, it shall be lawful for the Landdrost of the district in which the minor resides to grant or refuse consent after due enquiry into such cases. Discretion of Landdrost when minors cannot obtain consent.

17. No person shall, for any reason whatsoever, be compelled by any judicial sentence or decree to enter into marriage, but the aggrieved person may obtain pecuniary compensation for damages for any breach of promise of marriage, and shall be entitled to employ legal means for the recovery thereof. Marriage never compulsory. Damages for breach of promise.

18.† All marriages entered into outside this State by persons of whom one or both were not at the time of entering into such marriage resident within this State shall be recognised and considered to be equally valid in this State as in the country where such marriages shall have been solemnized, and should the legality of such marriages be disputed by any heirs or other interested parties the same may be proved in any court of law by producing the marriage registers or certificates if it should be customary to keep such Foreign marriages. Proof of same.

† See Govt. Notice No. 973, 1906, publishing Colonial Marriages (Deceased Wife's Sister) Act, 1906.

registers in such countries, or to grant certificates thereof, or by duly authenticated copies thereof, or by witnesses, or by any other proofs admissible by law in all other ordinary cases.

Marriage fees.

19. *As amended by Volksraad Resolution 7th June, 1876, article one hundred and seventeen, repealed by Ordinance No. 39, 1904, section three, and new provisions made.*

Consecration of marriage by minister.

20. When a marriage has been solemnized before the Landdrost it shall nevertheless be lawful for a minister as hereinbefore mentioned to consecrate such marriage without publication of banns and without keeping or forwarding a marriage register as required by article *thirteen*,\* a certificate of the Landdrost that such marriage has been solemnized by him being sufficient for such minister.

Recognised churches may regulate consecration and charge fees.

21. Nothing in this Ordinance contained shall be interpreted or understood to prevent any church or communion in this country recognised by the State from introducing such regulations or laws with regard to the religious consecration of marriages for members of such church or communion recognised by the State as may be in conformity with the religious views of such church or communion recognised by the State, or to prevent them from exercising church discipline in any such case, or from taking for the consecration of any marriage any pecuniary fee charged by such church or communion recognised by the State, provided that the exercise of such ecclesiastical authority does not infringe upon the civil or civic rights, privileges, and duties of the subjects of the State.

Penalties for destroying, etc., marriage register.

22. *Repealed by Ordinance No. 19, 1906, section thirty-seven, and new provision made.*

Marriages entered into before date of operation of this Ordinance.

23. All marriages which may have been solemnized before the coming into operation of this Ordinance, within or beyond the limits of the South African Republic, in a manner as to which no provision shall have been made by express legal enactment, shall in case the legality of such marriages shall be disputed or doubted in any competent court of law be considered and declared to be legal if it shall appear that such marriage was entered into in good faith and in a manner customary in the place where the same shall have been solemnized.

Penalties.

24. In cases of contravention of this Ordinance with regard to which no special provision has been made, the offender shall be punished with a fine of not less than £5 nor exceeding £15 sterling.

Ordinance applies only to whites.

25. All the provisions in this Ordinance refer only to white persons, both as regards the persons solemnizing the marriage and the persons who are married, while the marriages of coloured persons shall be regulated by separate ordinance.†

\* This should clearly be *fourteen*; the correction in the errata to Lokale Wetten 1849-1885 is, however, not justified by the text of the law as published in the *Staatskoerant*.

† See Law 3, 1897.

26. All laws and provisions in conflict with this Ordinance are hereby repealed and annulled. Repeals.

27. This Ordinance<sup>†</sup> shall come into operation in accordance with the provisions of article *sixty-nine*<sup>†</sup> of the Grondwet.

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<sup>†</sup> Published (as Law 4, 1871) in *Staatskoerant* (supplement) of 26th December, 8 71.

<sup>†</sup> See footnote to Art. 4 of Law 2, 1870.

## VOLKSRAAD RESOLUTION, 25th September, 1871.

School and chapel for natives at Potchefstroom.

Congregating of coloured people in villages forbidden, to prevent vagrancy, theft, etc.

104. The Raad resolves, in reply to the petition from Potchefstroom, that the Municipality is entitled to point out a place or places on which a school and chapel for natives may be erected.

The Raad resolves further that in future no erfholder in any village in this Republic shall be entitled to allow the congregating of coloured persons on his erf or erven, besides and beyond those required for his special services, and that he shall not be entitled to allow coloured persons who are not actually and legally under contract with him, and who do not derive their maintenance from him only, to live or congregate on his erf or erven; and the Landdrosts of the various villages are instructed to enforce this law strictly, in order to prevent vagrancy, theft, and other irregularities arising from such congregating.

**1872.**

## TREATY §

OF FRIENDSHIP, COMMERCE, AND EXTRADITION OF CRIMINALS  
BETWEEN THE SOUTH AFRICAN REPUBLIC AND THE ORANGE  
FREE STATE.

The South African Republic and the Orange Free State, desiring to contract (naauwer toe te halen) and strengthen the tie of common interest and mutual friendship now so happily existing between both Republics, and at the same time to promote by all means within their reach the exchange of commerce between their burghers, have mutually agreed to conclude a treaty of friendship, commerce, and the extradition of criminals.

Article 1. There shall be an inviolable peace, perfect friendship and freedom of trade between the Orange Free State and the South African Republic.

2. The burghers of the South African Republic and the Orange Free State shall be mutually admitted on the same footing and shall be treated as the burghers of the State in which they shall happen to be (waarin zij zich zullen bevinden).

No higher taxation or more onerous obligations shall be imposed upon them than upon the burghers of the State in which they shall happen to be ; they shall also not be burdened with any obligations which are not imposed upon the burghers of the State in which they live.

The above privileges shall, however, not be extended to the enjoyment of political rights.

3. Neither of both the contracting parties shall impose a higher or heavier taxation upon the importation, exportation, or transit of the products or the results (voortbrengselen) of science (vernuft) and art of the other than which are exacted upon the products or results of her own burghers.

4. Applications for permits for the transit of materials of war and firearms, for the use and benefit of the Government of one of both the States, shall be made in writing, state the number or quantity firearms, materials of war, etc., for which transit is requested, and be signed by the President of the State which requests such transit, upon which the President of the State, of whom such permit is requested, shall grant the same without levy of payment of any import or stamp dues thereon ; this shall not extend to the ammunition and firearms for the general trade.

5. The freedom of trade expressed in this treaty shall not extend to contraband articles, ammunition and firearms with the natives.

6. The South African Republic and the Orange Free State agree that on written application thereto by or on behalf of the President of their respective States extradition shall be made of persons who have been sentenced for, or are accused of, any of

§ Ratified by V.R.R. 29/7/72, Art. 156 (repealed) ; see also Treaty of 1889 (*infra*).

the crimes hereinafter set out, committed within the jurisdiction (rechtsgebied) of the Government which makes application for the same, and who have fled to, or are (zich bevinden) within the boundaries of the other; with this proviso, however, that such extradition shall only then take place if such sufficient proof is produced of the commission of the crime as would have been sufficient to justify the arrest or indictment of the person, if the crime had been committed at the place where the accused was found.

7. Persons accused of the following crimes shall be extradited in accordance with this treaty, to wit: Murder, parricide, infanticide, attempt to murder, culpable homicide, sodomy, rape, arson, theft, robbery by force, theft of public moneys (landsdieven), fraud, fraudulent insolvency, false coining, defacing coins, uttering false coins, extortion (afpersing), speculation (knevelarij), bribery of officials, poisoning, falsity, forgery, bigamy, seduction, incest.

8. The costs of the arrest and of the extradition in accordance with above articles shall be borne by those who demand the same.

9. The provisions of the articles mentioned above as to the extradition of fugitive offenders shall not apply to crimes of a political nature.

10. This treaty shall be entered into for not longer than five years from the date of the ratification and thereafter until twelve months after notification by one or both the parties.

J. H. BRAND,

President of the Orange Free State.

In our presence :

F. K. HÖHNE, Government Secretary.

M. STEYN, Member of the Executive Council.

Bloemfontein, 28th June, 1872.

THOMAS BURGERS,

President of the South African Republic.

In our presence :

N. J. R. SWART, Government Secretary.

FRED JEPPE,

M. N. VORSTER,

Members of the Executive Council.

Government Office, Pretoria, South African Republic,  
1st August, 1872.

## 1874.

## LAW No. 2, 1874.\*

REGULATING MEASURES AND WEIGHTS IN THE SOUTH  
AFRICAN REPUBLIC.

(Enacted by Volksraad Resolutions, Articles 123-128, dated 14th October, 1874.)

Whereas it is necessary for the protection of the interests of the burghers of the South African Republic, for the better regulation of trade, and for the general welfare and in the general interest that there should be standard weights and measures in the South African Republic uniform (gelijkvormig) with those which at present exist in the Colony of the Cape of Good Hope and in the Orange Free State: Now therefore the Hon. Volksraad has deemed fit to provide and enact as it hereby does:—

Preamble.

1. All laws and customs in conflict with the provisions of this law are hereby repealed.

Repeal of  
previous  
enactments  
and customs.

2. The State President is instructed as speedily as possible after the passing of this law to order a copy or model of the standard pound avoirdupois weight made of such metal or such materials as shall best resist the action of the atmosphere and wear and tear; of the standard yard, the standard gallon, the standard bushel, the standard bucket, and the standard of such sub-divisions of the same as are at present preserved in the Colony of the Cape of Good Hope and in the Orange Free State, in terms of Ordinance No. 1, 1869, at the office of the Treasurer-General or the official charged therewith.

Models of  
standard  
weights and  
measures.

3. The copies or models mentioned in the previous article shall be deposited in the office of the Treasurer-General and carefully preserved in a chest, of which there shall be two locks, with separate keys, one of which shall remain with the State Secretary and the other with the Treasurer-General, and these copies or models shall be and are hereby declared to be the original and genuine standard of all measures and weights established by this law. And the Treasurer-General shall, upon written request of one of the Landdrosts with consent of the State President, upon reasonable notice and at reasonable times, produce one or more of the said measures and weights in order to test and investigate the correctness of such measure or weight.

To be  
deposited  
with  
Treasurer-  
General.

Production  
for testing,  
etc.

4. A sufficient number of standard measures and weights shall be made from the copies and models mentioned in article two of this law so that there may be a sufficient number to supply each of the Landdrosts of the various districts with same.

Models to be  
sent to all  
Landdrosts.

\* See S.V.R.R. 2/5/96, Art. 268 (*infra*).

Custody and production by Landdrosts.

5. Each Landdrost shall be obliged and bound to carefully preserve such models and at all reasonable times, and upon reasonable notice in writing from any person requesting him so to do, produce such model or models for investigation or\* for testing the correctness of any measure or weight upon payment of one shilling sterling.

Previous weights and measures abolished.

6. After the coming into operation of this law the measures and weights hitherto in use shall be abolished, and if any person after the coming into operation of this law shall sell anything otherwise than according to the standard measures and weights deposited at the office of the Treasurer-General, he shall be liable to a fine not exceeding forty shillings sterling, provided however that all agreements of sale or other contracts entered into in good faith before the coming into operation of this law shall be performed and adjudged as if this law had not been passed, and also that this shall not apply to the sale of land nor to the sale of gold, silver, precious stones, or of medicines by retail for which there are special weights.

Exceptions.

Entrance and inspection by certain officials.

7.† *After the coming into operation of this law, any Landdrost, Justice of the Peace, or Chief Constable, or other person to be appointed for the purpose by the Government shall have the right at all reasonable times to enter any place within the limits of his district where goods are kept for sale, or where any trade by measure or weight is carried on, and there to inspect all measures, weights, scales, steelyards, or other weighing machines which may be there, to compare and to test (the same—Trs.) with the standard model measures and weights which are kept by the Treasurer-General or the different Landdrosts, as provided by articles three and four; the measures, weights, scales, and weighing machines so tested, compared, and inspected shall, if found correct (marked), be assized one and other as may be further regulated by the Government. Further, the Landdrosts in the districts and the Mining Commissioners on the gold fields shall be obliged at least twice a year to have all measures, weights, scales, steelyards or other weighing machines within their jurisdiction assized, and shall report the result each year in the month of January to the Government.*

Assizing.

False weights and measures.

8. If upon the examination, as in the preceding article mentioned, it shall appear that any measure or weight is not in accordance with the standard measures and weights by this Act established, or is found to be too light or otherwise unlawful, the same may be seized and the person or persons in whose possession the same may be found shall upon conviction forfeit the same, and in addition be punishable with a fine not exceeding the sum of five pounds.

Forfeiture and penalty.

Penalties.

9. Any person who has in his possession any balance, steelyard, or other weighing machine which shall, on such examination as is mentioned in article seven, appear to be

\* Wrongly published in Lokale Wetten as "en" (and); see Volksraad minutes and *Staatskoerant*, 6th January, 1875.

† This article has been substituted by Law 6, 1896.

incorrect or unlawful, or who, thereto required, shall refuse to produce all measures, weights, steelyards or other weighing machines which are in his possession or shall otherwise obstruct or hinder such examination shall, if such weighing machine, etc., is found to be incorrect or unlawful, or which he has refused or neglected to produce at the examination, or if he has hindered or obstructed the examination, forfeit the same and in addition be punishable with a fine not exceeding £5.

10. Nothing herein contained shall prevent any person from being prosecuted, in ordinary course of justice, for fraud or any other crime committed by means of false measures, weights, or balances.

Prosecutions under common law not barred.

11. All fines and forfeitures imposed by this law may be inflicted by the Court of the Landdrost within whose jurisdiction such act or refusal entailing such fines or forfeiture,\* and may be recovered by any person who institutes an action for the same, and the one half of such fine or forfeiture shall accrue to the party who institutes an action for the same, together with his costs as hereinafter mentioned, and the other half to the Government; if the transgressor does not forthwith pay the amount of the fine together with the reasonable costs of the person who institutes the action or give sufficient security for such payment to the satisfaction of the Landdrost, the Landdrost shall have the right to punish such transgressor with imprisonment of not more than one month.

Jurisdiction of Landdrosts.

12. Any measure, weight, balance, steelyard, or weighing machines which shall be declared forfeited under the provisions of this law shall be broken to pieces, or, if the same are saleable for other purposes, the same shall be sold and the half of the proceeds thereof shall be paid to the party who has instituted the claim for forfeiture and the other half to the State Treasury.

Forfeited weights and measures may be destroyed.

13. Every weight and every measure in use under the provisions of this law shall have upon its upper part (boven op) clear legible figures stamped or cast signifying the number of pounds or length of measure or sub-divisions of the pound or lineal measure which it represents.

Weights and measures to be stamped.

14. It shall not be lawful to use weights which are made of lead or tin, provided however that a plug of lead or tin may be inserted in a weight in order to bona fide adjust the same; provided that the same shall not be used for the adjustment thereof to a greater quantity than as follows:— For weights from 10 lbs. to 50 lbs. up to a two-hundredth part of such weight which must be adjusted, and in weights under 10 lbs. up to one-hundredth part of such weight which must be adjusted.† Every person contravening this article shall be punishable with a fine not exceeding £5.

Weights of lead or tin forbidden.

Penalties.

\* Verb omitted; probably "has occurred" was meant to be inserted.

† Words underlined are erroneously omitted in Lokale Wetten. See Volksraad minutes and *Staatskoerant*, 6th January, 1875.

Standard  
fixed.

15. It is enacted that the standard yard shall be three feet, the standard muid three bushels or nine buckets, the standard bushel three buckets, the average weight of a muid of corn shall be 200 lbs.

Imprison-  
ment.  
Jurisdiction of  
Landdrost.

16. In any sentence passed in virtue of this law the term of imprisonment to be undergone if the fine inflicted shall not be immediately paid shall be specified; the Court of the Landdrost shall have jurisdiction in all cases mentioned in this law.

Proclamation  
of law by  
President.

17. As soon as the standard measures and weights which are to be ordered under this law shall have arrived at Pretoria, the State President shall by proclamation in the *Staatskoerant*\* give notice thereof as well as of the several descriptions of the same, and shall, at the same time, fix the day upon which this law shall come into operation, which day shall not be earlier than six months and not later than twelve months from the date of the proclamation, and this Ordinance shall have force of law and come into operation from the day so fixed.†

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\* Put in force from 18th January, 1892, by Proclamation 19th June, 1891 (*infra*).

† Published in *Staatskoerant* of 6th January, 1875.

## PROCLAMATION

By me, THOMAS FRANCOIS BURGERS, President of the South African Republic.

Whereas, by deed dated at Christiana, South African Republic, on the 6th day of December, 1872, the Chief Massou Riet Taaibosch, Paramount Chief of the Koranna Nation, northward of the Vaal River, did with the full knowledge and advice of his Raad (Council) for that purpose duly assembled, cede to me, Thomas Francois Burgers, President of the South African Republic, and in my capacity as aforesaid, representing the people of the South African Republic, all territorial right and title (under certain conditions set forth in the said deed) possessed by the said Koranna Nation northward and north-westward of the Vaal River;

And whereas, thereafter, to wit, upon the 1st July, 1873, and at Matjawis Stad, South African Republic, the Chief Mosheté, Paramount Chief of the Barolongs, did in like manner, make concession to me, in my capacity, of all territorial rights, northward and north-westward of the Vaal, appertaining to the said Barolongs;

And whereas, thereafter, to wit, upon the 11th day of December, 1873, and at Christiana, South African Republic, the Chief Botlasitse Gasibone Mohelabangue, Paramount Chief of the Batlapins, did in like manner make concessions to me in my said capacity, of all territorial rights northward and north-westward of the Vaal River, appertaining to the said Batlapins;

Now therefore I, Thomas Francois Burgers, President of the South African Republic, acting for and on behalf of the people of the said Republic, do formally proclaim in order to avoid all future misunderstanding and dispute of whatsoever nature, that under and by virtue of the aforesaid concessions [made by the said Paramount Chiefs, after due and deliberate discussion, and with the full advice and consent of their respective Raads (Councils)];

1. That the territorial rights of the said Koranna Nation were from and after the aforesaid date, and now are, the territorial rights of the South African Republic, under the conditions of the aforesaid deed.

2. That the territorial rights of the said Barolongs were, from and after the aforesaid date, and now are, the territorial rights of the South African Republic, under the conditions of the aforesaid deed.

3. That the territorial rights of the said Batlapins were, from and after the aforesaid date, and now are, the territorial rights of the South African Republic, under the conditions of the aforesaid deed.

A.D. 1874.]

*Proclamation.*

All this without prejudice to any prior existing rights of the South African Republic to the grounds in respect of which the aforesaid cessions of territorial rights were so made.

And I do hereby warn all persons that offenders against this Proclamation will be strictly dealt with according to law.

Given under my hand at Doornplaats, District Potchefstroom, this 11th day of March, One thousand Eight hundred and Seventy-Four.

(Signed) THOS. BURGERS,  
State President of the S.A. Republic.

By order.

SWART, State Secretary.

**1875.****VOLKSRAAD RESOLUTION, 22nd May, 1875.**

Art. 114.\* On the order, stamps on the appointment of surveyors £15.

Stamps on appointment of surveyors.

**GOVERNMENT NOTICE No. 2139, dated 18th November, 1875.**

The following Executive Council Resolution dated 17th November, 1875, Article 238, is hereby published for general information:—

Resolved that it must be clearly understood that it is definitely forbidden to head officials, sheriffs, and salaried clerks to carry out any agencies, ‡ to be executors in foreign (non-family—Trs.) estates, to hold auctions, or to do anything which has the appearance of agency until the Hon. Volksraad shall have further decided hereon in the first following ordinary session.

Officials and sheriffs forbidden to act as agents, etc.

Confirmed by Volksraad Resolution, 15th June, 1888, Art. 475 reading:—

The Volksraad having agreed to close the discussion . . . approved of the recommendation of the Commission. Said recommendation reads as follows:—

Your Commission agrees with request of petitioners and recommends to the Hon. Volksraad to instruct the Government strictly to see to it that Art. 29 of the amended Law No. 8, 1885 (repealed—Trs.), together with Executive Council Resolution, Art. 238, dated 17th November, 1875, is strictly maintained; should it appear that there are still officials who will not submit to the law, then the Commission recommends to the Hon. Volksraad to authorize the Hon. Government to discharge such officials immediately.

\* As amended by Tr. Pr. 12, 1902, Sec. 2, and by Ord. 29, 1904, Sec. 4.

‡ See V.R.R. 3/10/84, Art. 733 (officials not to act as agents) (repealed by Law No. 2, 1899, Art. 34); see also Act No. 19, 1908 (Public Service and Pensions).

**1876.**

## VOLKSRAAD RESOLUTION, 5th June, 1876.

Taxes on  
portions of  
farms.

Art. 105. § On the order, the increased farm tax, £2,000. In connection with the explanatory memorandum of the Commission, which reads:—

“The Commission has hereby brought the increased income to £2,000, although a higher revenue was proposed from it, since it was the intention of His Honour the President that all portions of farms should pay the full tax as if they were whole farms. The Commission is, however, of opinion that such would press too heavily on owners of smaller portions of ground, and therefore proposes that every owner of ground who possesses less than half of a farm shall pay taxes for half a farm, and those who possess more than half and less than a whole farm shall pay the full tax as if it were a whole farm. Quitrent and freehold farms are both included herein.”

The Raad resolves to agree with the recommendation of the Commission and approves of the item on the order.

## VOLKSRAAD RESOLUTION, 7th June, 1876.

Taxes on  
portions of  
freehold  
farms.

Art. 107a. || The Raad resolves that whereas it is necessary that the rights of burghers once obtained to freehold farms should be most strictly maintained, no levying of taxes on the sub-divisions of such freehold farms shall be deemed to be a breach or disregard of such rights. As, however, by reason of the increase of division of such freehold farms into two or more sub-divisions, of which separate transfers are passed, it has become necessary to fix a certain “minimum,” or lowest amount which shall be levied upon such sub-divisions, the Raad resolves further that henceforth 5s. (five shillings) per annum shall be paid on any sub-division of a freehold farm, being less than half of the farm and for which a separate deed of transfer has been made out, and the sum of ten shillings on every such sub-division greater than half of the farm, and ten shillings only shall continue to be paid on the portion of the farm represented by the original deed of transfer.

§ Sec V.R.R. Nov., 1868, Artt. 318 and 319 (*supra*).

|| See V.R.R. Nov., 1868, Art. 318 (*supra*).

## VOLKSRAAD RESOLUTION, 16th June. 1876.

Art. 235. On the order, Executive Council Resolution\* dated 12th October, 1875, Article 186. Licence for skittle alleys.

On the order, letter from the Acting Gold Commissioner dated Pilgrims Rest, 2nd October, 1875, requesting that provision should be made for the holding of a licence for a skittle alley:

The Raad resolves as regards the matter on the order to instruct the Government to make due provision and to fix a reasonable licence.†

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\* Provisional licence was fixed by Government Notice 2082, 1875, which was repealed by Tr. Pr. 34, 1901.

† This licence was fixed by Government Notice 439, 1876, published in *Staatskourant* 20th December, 1876, reading as follows:—

It is hereby notified for general information that the licence of £12 per year, £9 per six months, and £5 per quarter for the keeping of a skittle alley, which was provisionally established by Executive Council Resolution of 12th October, 1875, Art. 186, has been fixed by virtue of Volksraad Resolution dated \*10th June 1876, Art. 235.

\* This should be 16th.

**1877.**

## PROCLAMATION‡

By His Excellency 'SIR THEOPHILUS SHEPSTONE, Knight Commander of the Most Distinguished Order of Saint Michael and Saint George, Her Majesty's Special Commissioner for certain purposes in South Africa.

Whereas at a meeting held on the sixteenth day of January, in the Year of Our Lord One thousand Eight hundred and Fifty-Two, at the Sand River, between Her Majesty's Assistant Commissioners, Major Hogge and C. M. Owen, Esquire, on the one part, and a deputation from the emigrant farmers then residing north of the Vaal River, at the head of which was Commandant-General A. W. J. Pretorius, on the other part, the said Her Majesty's Assistant Commissioners did "guarantee in the fullest manner on the part of the British Government to the emigrant farmers north of the Vaal River, the right to manage their own affairs, and to govern themselves according to their own laws, without any interference on the part of the British Government";

And whereas the evident objects and inciting motives of the Assistant Commissioners in granting such guarantee or permission to persons who were Her Majesty's subjects were "to promote peace, free trade, and friendly intercourse" with and among the inhabitants of the Transvaal, in the hope and belief that the territory which a few years afterwards, namely, in February, 1858, became known by the style and title of "The South African Republic," would become a flourishing and self-sustaining State, a source of strength and security to neighbouring European communities, and a point from which Christianity and civilization might rapidly spread towards Central Africa;

And whereas the hopes and expectations upon which this mutual compact was reasonably and honourably founded have been disappointed, and the circumstances as set forth more at length in my address to the people, of to-day's date, hereunto attached, show that increasing weakness in the State itself on the one side, and more than corresponding growth of real strength and confidence among the native tribes on the other, have produced their natural and inevitable consequences, as will more fully appear from a brief allusion to the facts that after more or less of irritating contact with aboriginal tribes to the north, there commenced about the year 1867 gradual abandonment to the natives in that direction of territory settled by burghers of this State, in well-built towns and villages and on granted farms; that this was

‡ See Pretoria Convention, 1881 (*infra*).

succeeded by the extinction of all effective rule over extensive tracts of country included within the boundaries of the State, and as a consequence by the practical independence, which still continues, of large native tribes residing therein, who had until then considered themselves subjects;

That some few farmers, unwilling to forfeit homes which they had created for their families, and to which they held grants from the Government of the Transvaal, which grants had, however, ceased and still fail to protect them in their occupation, made terms with the native chiefs, and now occupy their farms on condition of periodical payments to those chiefs, notwithstanding the acknowledgment which such payments involve;

That this decay of power and ebb of authority in the north is being followed by similar processes in the south under yet more dangerous circumstances, people of this State residing in that direction have been compelled within the last three months, at the bidding of native chiefs, and at a moment's notice, to leave their farms and homes, their standing crops, some of which were ready for reaping, and other property, all to be taken possession of by natives, but that the Government is more powerless than ever to vindicate its assumed rights or to resist the declension that is threatening its existence. That all confidence in its stability once felt by surrounding and distant European communities has been withdrawn. That commerce is well nigh destroyed. That the country is in a state of bankruptcy. That the white inhabitants, discontented with their conditions, are divided into factions. That the Government has fallen into helpless paralysis from causes which it has been and is unable to control or counteract. And that the prospect of the election of a new President, so far from allaying the general anxiety, or from inspiring hope in the future, is looked forward to by all parties as most likely to result in civil war, with its attendant anarchy and bloodshed;

That the condition above described affords strong temptation to neighbouring native powers, who are known to be anxious and ready to do so, to make attacks and inroads upon the State, which from its weakness it cannot repel, and from which it has hitherto been saved by the restraining influence of the British Government, exercised from Natal by Her Majesty's representative in that Colony, in the hope, yet unfulfilled, that a friendly understanding might be arrived at between the Government of the Transvaal and the complaining native chiefs;

That the Sikukuni war, which would have produced but little effect upon a healthy constitution, has not only proved suddenly fatal to the resources and reputation of the Republic, but has shown itself to be a culminating point in the history of South Africa, in that a Makatee or Basutu tribe, unwarlike, and of no account in Zulu estimation, successfully withstood the strength of the State, and disclosed

for the first time to the native powers outside the Republic, from the Zambesi to the Cape, the great change that had taken place in the relative strength of the white and the black races; that this disclosure at once shook the prestige of the white man in South Africa, and placed every European community in peril, that this common danger has caused universal anxiety, has given to all concerned the right to investigate its causes, and to protect themselves from its consequences, and has imposed the duty upon those who have the power to shield enfeebled civilization from the encroachments of barbarism and inhumanity;

And whereas the inherent weakness of this Government and State from causes above alluded to, and briefly set forth, and the fact that the past policy of the Republic has not only failed to conciliate the friendship and goodwill, but has forfeited the respect of the overwhelming native populations within and beyond its boundaries, which together probably exceed one and a half millions, render it certain that the Transvaal will be the first to suffer from the consequences of a pressure that has already reduced its political life to so feeble a condition;

And whereas the ravaging of an adjoining friendly State by warlike savage tribes cannot for a moment be contemplated by Her Majesty's Government without the most earnest and painful solicitude, both on account of the miseries which such an event must inflict upon the inhabitants of the Transvaal, and because of the peril and insecurity to which it would expose Her Majesty's possessions and subjects in South Africa, and seeing that the circumstances of the case have, from the inherent weakness of the country already touched upon, become so grave, that neither this country nor the British Colonies in South Africa can be saved from the most calamitous circumstances except by the extension over this State of Her Majesty's authority and protection, by means of which alone oneness of purpose and action can be secured and a fair prospect of peace and prosperity in the future be established;

And whereas I have been satisfied by numerous addresses, memorials, and letters which I have received, and by the abundant assurances which personal intercourse has given me, that a large proportion of the inhabitants of the Transvaal see in a clearer and stronger light than I am able to describe them, the urgency and imminence of the circumstances by which they are surrounded, the ruined condition of the country, and the absence within it of any element capable of rescuing it from its depressed and afflicted state, and therefore earnestly desire the establishment within and over it of Her Majesty's authority and rule; and whereas the Government has been unable to point out or devise any means by which the country can save itself, and as a consequence relieve the other white communities of South Africa from the danger of the dire events, certain speedily to result from

the circumstances by which it is surrounded, and can entertain no reasonable hope that it possesses or is likely under its present form of Government to possess the means to raise itself to a safe and prosperous condition;

And whereas the emergency seems to me to be such as to render it necessary in order to secure the peace and safety of the Transvaal territory as well as the peace and safety of Her Majesty's Colonies, and of Her Majesty's subjects elsewhere, that the said Transvaal Territory should provisionally and pending the announcement of Her Majesty's pleasure be administered in Her Majesty's name and on her behalf;

Now therefore I do, in virtue of the power and authority conferred upon me by Her Majesty's Royal Commission, dated at Balmoral, the fifth day of October, 1876, and published herewith, and in accordance with instructions conveyed to me thereby and otherwise, proclaim and make known that from and after the publication hereof the territory heretofore known as the South African Republic, as now measured and bounded, subject however to such local modifications as may hereafter appear necessary, and as may be approved of by Her Majesty, shall be and shall be taken to be British Territory, and I hereby call upon and require the inhabitants of the Transvaal, of every class and degree, and all Her Majesty's subjects in South Africa to take notice of this my proclamation and to guide themselves accordingly;

And I hereby further proclaim and declare that I shall hold responsible all such persons who in the Transvaal shall venture opposition, armed or otherwise, to Her Majesty's authority hereby proclaimed, or who shall by seditious and inflammatory language or exhortations or otherwise incite or encourage others to offer such opposition, or who shall injure, harass, disturb, or molest others because they may not think with them on political matters, and I do warn all such that upon conviction of any of the above offences they will be liable to the severe penalties which the law in such cases ordains; and I hereby appeal to and call upon the orderly, right-thinking, and peace-loving people of the Transvaal to be aiding and supporting Her Majesty's authority;

And I proclaim further that all legal courts of justice now in existence for the trial of criminal or civil cases or questions are hereby continued and kept in full force and effect, and that all decrees, judgments and sentences, rules, and orders, lawfully made or issued, or to be made and issued by such courts shall be as good and valid as if this proclamation had not been published; all civil obligations, all suits and actions, civil, penal, criminal, or mixed, and all criminal acts here committed which may have been incurred, commenced, done, or committed before the publication of this proclamation, but which are not fully tried and determined may be tried and determined by any such lawful courts or by such others as it may be found hereafter necessary to establish for that purpose;

And I further proclaim and make known that the Transvaal will remain a separate Government, with its own laws and legislature and that it is the wish of Her Most Gracious Majesty that it shall enjoy the fullest legislative privileges compatible with the circumstances of the country and the intelligence of its people. That arrangements will be made by which the Dutch language will practically be as much the official language as the English; all laws, proclamations, and Government notices will be published in the Dutch language; in the Legislative Assembly members may, as they do now, use either language; and in the Courts of Law the same may be done at the option of suitors to a cause. The laws now in force in the State will be retained until altered by competent legislative authority;

Equal justice is guaranteed to the persons and property of both white and coloured; but the adoption of this principle does not and should not involve the granting of equal civil rights, such as the exercise of the right of voting by savages, or their becoming members of a legislative body, or their being entitled to other civil privileges which are incompatible with their uncivilized condition;

The native tribes living within the jurisdiction and under the protection of the Government must be taught due obedience to the paramount authority, and be made to contribute their fair share towards the support of the State that protects them;

All private bona fide rights to property, guaranteed by the existing laws of the country, and sanctioned by them, will be respected;

All officers now serving the Government, and who may be able and willing to serve under the altered circumstances of the country, shall be entitled to retain their positions and such rights as their positions now give them;

All bona fide concessions and contracts with Governments, companies, or individuals, by which the State is now bound, will be honourably maintained and respected, and the payment of the debts of the State must be provided for;

The appointments or licences in virtue of which attorneys, land surveyors, and others are entitled to practise their callings shall be respected in accordance with the terms and conditions of such appointments or licences.

GOD SAVE THE QUEEN.

Given under My Hand and Seal at Pretoria in the South African Republic, this Twelfth day of April in the Year of Our Lord One thousand Eight hundred and Seventy-Seven.

T. SHEPSTONE,

Her Majesty's Special Commissioner.

By Command of His Excellency.

M. OSBORN, Secretary.

**1880.**

## LAW No. 9, 1880.\*

## FOR THE REGULATION OF THE ELECTRIC TELEGRAPHS.

(Enacted by the Administrator of the Transvaal Province, with the advice and consent of the Legislative Assembly thereof.)

Whereas it is expedient to provide for the construction, regulation, and protection of lines of electric telegraphs in this Province. Be it therefore enacted by the officer administering the Government of the Transvaal Province, with the advice and consent of the Legislative Assembly thereof, as follows:—

1. From and after the passing of this law, no line of electric telegraph shall be constructed in this Province, until the officer administering the Government, with the advice of the Executive Council thereof, shall have sanctioned the construction of such line; and every line of electric telegraph constructed or to be constructed within this Province shall be subject to the several provisions of this law.

Construction  
of lines.

2. It shall be lawful for the officer administering the Government of the Transvaal Province, with the advice of the Executive Council thereof, to establish and construct such line or lines of electric telegraph as he may think fit, and for the purpose of facilitating the construction and maintenance of such line or lines of electric telegraph, the person or persons authorised by him may enter into and upon such lands as may be required for the construction of any line of communication by electric telegraph, and any other works incident or relative thereto; and may erect, set up, and maintain all necessary poles or structures for the supporting of any cord or wire of any such line, or bury or lay such cord or wire in the ground; and may dig, get, and carry away any stone, clay, or other materials which may be required.

Right to enter  
lands, etc.

3. It shall be lawful for the person or persons so authorised as aforesaid to carry any line of communication by electric telegraph upon, along, or across any public or private road in this Province; provided that every cord or wire of any such line which shall be carried along any such road, or within eighty feet of the centre of any such road, shall be placed at least ten feet from the ground, and that every such cord or wire which shall cross any such road above ground be at least fourteen feet from the ground; provided also that the free use and enjoyment of any road over, along, or across which any such line of communication shall be carried be not hindered or obstructed, and that no posts or other erections shall be placed upon any road or within eighty feet of the

Crossing  
roads.

\* Assented to—see Govt. Notice No. 207, 1880, in *Gazette*, 5/10/80; see Law No. 3, 1884 (*infra*); Law No. 22, 1896 (*infra*).

centre thereof without the consent of the body having the maintenance and control of such road; provided further, that if any cord or wire shall pass over private lands the said cord or wire shall not be placed lower than ten feet from the ground, and shall at any particular spot or spots necessary for the convenient use of such lands by the occupier thereof, be placed at least fourteen feet from the ground, at such particular spot or spots to be fixed by the Landdrost of the district, in case the constructor of the line of telegraph and the owner or occupier of the lands shall not agree upon the same.

Regulations.

4. It shall be lawful for the officer administering the Government of the Transvaal Province, with the advice of the Executive Council thereof, to make rules and regulations appointing the amount of fees, rates, or dues to be demanded or received for the transmission or conveyance of any despatch, message, or communication, and also for the transmission and conveyance of all despatches, messages, or communications by means of any such line, and for the payment of such fees, rates, and dues, and generally for the conduct, management, working, and maintenance of any such line of communication; and any such rules or regulations to repeal, alter, or vary, and make such other rules or regulations as may be deemed expedient; and such rules and regulations shall, after having been made by the officer administering the Government, with the advice of the Executive Council, be published for general information, and shall take effect from and after the date of such publication in the *Government Gazette*; and all such fees, rates, or dues as aforesaid shall be at all times charged equally to all persons and no reduction or advance in any such fees, rates, or dues shall be made in favour of or against any particular company or person for whom any despatch, message, or communication may be transmitted or conveyed by means of any such line; and all despatches, messages, and communications shall be sent for all persons alike in regular succession without delay, favour, or preference; provided that any despatch, message, or communication in relation to the preservation of the tranquillity of the Province or of the adjacent territories, to the arrest of criminals, the discovery or prevention of crime, or any other matter connected with the administration of justice and urgent matters pertaining to the Government of the Province, shall take precedence of any other despatch, message, or communication, and until it shall have been transmitted the transmission of all other messages shall be suspended; provided also that no person shall be permitted to occupy the telegraph by sending messages, despatches, or communications of unreasonable length, so as to impede the speedy transmission of other messages, despatches, or communications.

Government  
control.

5. Where in the opinion of the officer administering the Government of the Transvaal Province, with the advice of his Executive Council, an emergency has arisen in which it is

expedient for the public service and in the interest of the community that the Provincial Government should have control over the transmission of messages by any telegraphs in this Province, such officer may direct and authorise such persons as he thinks fit to assume the control of the transmission of messages, either wholly or partly, and in such manner and for such time as he may direct. Such control shall also apply to the delivery in this Province of messages received during such emergency from other places beyond the limits of this Province.

6. Any person who shall wilfully in any way injure, disturb, obstruct, or interrupt the free use or working of any line of electric telegraph, or any work incidental thereto or connected therewith, or shall wilfully tamper with any line of communication or any part thereof, or shall obstruct, hinder or prevent the forming, constructing, completing, or maintaining any such line of communication or any part thereof shall, upon conviction, forfeit a sum of not less than five pounds sterling, nor more than fifty pounds sterling, or be imprisoned with hard labour for any period not exceeding two years, or to both such fine and imprisonment; provided that the Court of the Landdrost of the district in which such offence shall have been committed shall have jurisdiction to try such offence, but shall not be competent to punish in any higher or more severe manner than by a fine not exceeding twenty-five pounds sterling, or by imprisonment, with or without hard labour, for any period not exceeding six months, or by both fine and imprisonment; provided, also, that nothing herein contained shall alter or affect any law in force in this Province for the punishment of the crime of malicious injury to property.

Penalty obstructing line, etc.

7. It shall be lawful for any person or persons who may witness the commission of any such offence, as in the last preceding section mentioned, to apprehend the offender, and by the authority of this law and without any warrant to deliver him to any Field Cornet, constable, or peace officer to be kept in safe custody in order to be dealt with according to law.

Apprehension without warrant.

8. If any person shall through carelessness do damage to any such line of communication by electric telegraph as aforesaid, the Public Prosecutor of the district in which such damage shall have been done shall, upon the application or complaint of the Inspector of such line, summon the party complained of before the Landdrost of the district; and the Landdrost, after hearing the parties on both sides, or on the non-appearance of the party complained of, shall examine into the matter of complaint, and may award such sum of money not exceeding fifty pounds sterling by way of compensation for such damage as to such Landdrost shall appear reasonable: and in case of refusal or neglect forthwith to pay such money, or to give security to the satisfaction of such Landdrost for the payment thereof, such Landdrost may

Negligently damaging line.

sentence the party so neglecting or refusing, to imprisonment, with or without hard labour, for any period not exceeding three months; provided, however, that nothing herein contained shall prevent the said Inspector from suing for damages by civil action in the High Court, should he consider the amount of such damage to exceed fifty pounds sterling.

Unlawfully  
entering  
office, etc.

9. Any person who shall, without permission, enter any telegraph office, or refuse to quit the same when requested so to do by the person in charge of such office, or who shall wilfully obstruct or impede any officer or servant employed upon any telegraph line in the discharge of his duty, shall be liable to a fine not exceeding fifty pounds sterling, or to imprisonment, either with or without hard labour, for any term not exceeding three calendar months, or to both such fine and imprisonment.

Fraud of  
employee, &c.

10. Any clerk, messenger, or other person who shall be employed in the working of any line of electric telegraph who shall fraudulently or maliciously secrete, make away with, alter, or omit to transmit any message which he may have received for transmission or delivery, or, not being a witness in a court of justice, shall divulge the contents of any message or despatch transmitted or conveyed, or to be transmitted or conveyed, without the consent of the person sending or receiving such message or despatch, *\*or make a copy of such message in any form without having received written instructions to that effect from his superior, or without its being required to carry on the service,* shall, upon conviction, be liable to a fine not exceeding one hundred pounds sterling, or to be imprisoned, with or without hard labour, for a period not exceeding six calendar months, or to both such fine and such imprisonment; *†the person or persons who by gifts, presents, or promises may have persuaded such clerk, messenger, or other employee to commit the offences specified in this article shall be subject to similar penalties.*

Telegrams  
not duly paid  
for.

11.‡ Any person who shall transmit or cause to be transmitted by electric telegraph any message or item of news for which the amount fixed has not been paid, intending thereby to defraud (*te kort doen*) the owner or owners of such a telegraph; or

False  
messages.

*Any person who shall tender or cause to be tendered to any telegraph office for transmission a message or item of news (or report) which is mendacious or incorrect, or beside the truth, or which is in conflict with the laws of the country, or public order, or the safety of the State, or public morals; or*

Telegraph  
officials.

*Any telegraph official who wilfully transmits or causes to be transmitted or delivers or causes to be delivered a message or item of news or report as above mentioned in paragraph 2 of this article, shall, if found guilty, be subject to a fine not*

Penalties.

\* Words in italics have been inserted by Second Volksraad Resolution, 11th July, 1893, Article 584.

† The words in italics have been added by Second Volksraad Resolution, 11th July, 1893, Art. 584.

‡ This article has been substituted by Law 23 of 1896.

*exceeding one hundred pounds sterling, or to imprisonment with or without hard labour, for a period not exceeding six calendar months, or to both imprisonment and fine.*

12. The inspector of any line of communication by electric telegraph, or any person authorised by him and acting on his behalf, shall be competent to prosecute any person contravening any of the provisions of this law in the Court of the Landdrost for any offence committed against or in respect of such line of communication, without previously applying to, or being authorised by, the Attorney-General; and all fines and penalties recovered under this law shall be paid one-half into the Public Treasury and the other half to the informer; provided that it shall be competent for the officer administering the Government of this Province to mitigate or wholly remit any such fine or penalty.

*Locus standi*  
of inspector.

13. By electric telegraph is intended any means of conveying sounds, signs, or signals by the agency of electricity, magnetism, electro-magnetism, or other like agency.

Definition.

14. This law may be cited for any purpose as “The Electric Telegraphs Law, 1880.”

Title.

15. This law shall commence and take effect from and after the date of the promulgation thereof in the *Transvaal Government Gazette*. §

A.D. 1880.]

Masters and Servants.

[Law No. 13.]

LAW No. 13, 1880.||

TO REGULATE THE RELATIVE RIGHTS AND DUTIES OF MASTERS  
AND SERVANTS AND APPRENTICES.

(Enacted by the Administrator of the Transvaal Province with  
the advice and consent of the Legislative Assembly  
thereof.)

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.

Be it therefore enacted by the officer administering the  
Government of the Transvaal Province, with the advice and  
consent of the Legislative Assembly thereof, as follows:—

Repeal.

1. All laws and regulations and resolutions of the Volks-  
raad repugnant to or inconsistent with the provisions of this  
law shall be, and the same are, hereby repealed.

2. For the purposes and within the meaning of this law,  
unless it be otherwise specially provided, or there be something  
in the subject or in the context repugnant to such construction:

Interpreta-  
tion of terms.

1st. The word "Administrator" shall mean the officer  
lawfully administering the Government of this  
Province.

2nd. The word "servant" shall be construed and under-  
stood to comprise any person employed for hire,  
wages, or other remuneration,\* to perform any handi-  
craft or any other bodily labour in agriculture or  
manufactures, or in domestic service, or as a boat-  
man, porter, or other occupation of a like nature.

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.

4th. The word "master" shall be construed and under-  
stood to comprise any person, whether male or female,  
employing for wages, hire, or other remuneration,\*  
any persons 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 apprentice-  
ship made according to law.

5th. The words "contract of service" and "contract of  
apprenticeship" shall respectively be construed and  
understood to comprise any agreement, whether oral  
or written, whether expressed or implied, which any  
person falling within the before-mentioned definition  
of the words "servant" or "apprentice" shall

|| Assented to; see Govt. Notice No. 61, 1881, *Gazette*, p. 200. The provisions  
of Law No. 13, 1880, do not apply to labourers introduced under Ordinance No. 17,  
1904; see Section 32 of the latter.

\* The expression "other remuneration" has been defined by Act 27, 1909,  
Sec. 1.

respectively have entered into or made according to law with any person falling within the before-mentioned definition of the word "master," for performance of any work or labour of any kind hereinbefore mentioned.

6th. The words "Landdrost" and "Landdrosts" shall be construed and understood to comprise the Landdrosts duly appointed for the different districts of this Province.

7th. The word "month" shall be construed and understood to comprise the period of one calendar month.

8th. The words "father," "parent," "relative," "husband," and "wife" shall be respectively construed and understood to comprise reputed fathers, parents, relatives, husbands, or wives, as well as actual parents and relatives and lawful husbands and wives.

9th. The words "officer" and "proper officer," when used with reference to the attestation or making of contracts of service of 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 Administrator to attest or make such contracts.

10th. All words in this law, 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.

#### CHAPTER I.

1. The Courts of this Province, in all cases which are now, or shall be hereafter, depending before the same, arising out of or respecting the formation or dissolution of contracts of service or apprenticeship, or touching or concerning any rights, duties, obligations, power, liabilities, or other matters, or things arising out of or proceeding from any contracts of service or apprenticeship, or any of the mutual relations subsisting between masters and servants or apprentices, shall respectively try, judge, and determine said causes according to the law of this Province respecting and applicable to bilateral contracts in general, except when other provisions touching and concerning any such matter and thing as aforesaid shall have been made in this law or by any other law not repealed by the provisions of this law. Jurisdiction.

2. This law shall not annul or affect any contracts of service or apprenticeship entered into previously to the time when this law shall take effect, and which under and by virtue of and according to any laws in force within this Province on the day previously to the taking effect of this law were then subsisting legal and valid contracts. Existing contracts.

Setting aside  
contract.

3. Nevertheless any such last-mentioned contract of service or apprenticeship to be performed within this Province shall be liable to be set aside by any Landdrost having jurisdiction over the parties, or any competent Court, upon reasonable proof being made to the satisfaction of such Landdrost or Court that either of the parties to such contract was induced to enter into the same by any fraud, misrepresentation, or concealment.

## CHAPTER II.

Foreign  
contracts.

1. No contract of service made elsewhere than within the limits of this Province shall be of force or effect within this Province, except the same shall have been made in writing.

Must be  
confirmed by  
Landdrost.

2. Contracts as before mentioned shall not, except as hereinafter excepted, be valid within this Province unless the same shall have been inspected and confirmed by a Landdrost of this Province, in which case such contracts shall have force and effect for any term therein stipulated; provided such term shall not be taken to extend beyond three years from the date of the arrival in the Province of the contracting servant.

European  
contracts.

3. Contracts of service made in any country of Europe shall be valid within this Province for any stipulated period not exceeding three years from the date of the arrival of the contracting servant.

Contracts  
entered into  
in any British  
possessions.

4. Contracts of service made in any British possession not in Europe, if duly executed before a Magistrate or any other competent authority, or contracts of service made in any Foreign State not in Europe, if duly executed before any British Consul resident in any such State, shall be valid in this Province for any stipulated term not exceeding three years from the date of the arrival in this Province of the contracting servant; provided always that in case one or more of the contracting parties shall not be of European birth, the said Magistrate, Consul, or other authority shall certify on the said contract that the conditions therein contained have been read, explained, and, if needful, translated, and have been agreed to by the said contracting parties. But contracts not so certified shall, notwithstanding, have force and effect in this Province upon other proof of such contract to the satisfaction of the Landdrost before whom the same shall come in question.

Approval by  
Landdrost.

5. All contracts of service provided for in the preceding two sections of this law made without the limits of the Province, shall within two months from the date of the arrival of the contracting servant be submitted to the inspection of a Landdrost, who is hereby required to record the said contract and empowered to amend the same should the conditions of such contract be manifestly unjust or mutually inequitable.

Office fee.

6. For the recording and for the confirmation, inspection, or revision of any such contract there shall be paid to the Landdrost by the party contracting with the servant, a fee of five shillings, which fee shall be paid into the Provincial Treasury for the use of the public service.

7. It shall be lawful for any party to any such contract as aforesaid conceiving himself aggrieved by any decision of any Landdrost to appeal against any such decision to the High Court of this Province. Appeal.

8. 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 as 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. Contract deemed to be subject to one month's notice, unless otherwise specified.

9. No oral contract of service shall be valid or binding for any longer term than one year 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. Oral contracts.

10. No written contract of service entered into in this Province shall be valid or binding for a longer period than one year 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 the case of illiterate persons, with the mark of the contracting parties, in the presence of a Landdrost or other proper officer described in the second section hereof, who shall satisfy himself by enquiry of the servant or apprentice 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 the fact. Written contracts.

11. No such contract so entered into before a Landdrost or other officer shall be valid or binding for a longer period than five years from the date thereof if entered into within this Province, and no such contract shall endure longer than five years from the day of the commencement of the service when such contract shall be entered into elsewhere than in this Province. Time limit for written registered contracts.

12. All contracts of service entered into before a Landdrost or other proper officer within the limits of this Form of contract.

Province shall be drawn up as nearly as possible in the following terms:—

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, “Landdrost or  
officer specially appointed by the Administrator 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 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 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 abovenamed  
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,

*Landdrost,*

“or officer specially appointed by the Adminis-  
trator to attest contracts of service for the  
district.”

Notice.

13. 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.

Waiver.

14. When any 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 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.

15. 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 shall have been included in the contract, in manner hereinafter mentioned in section *eighteen* of this chapter, with lodging and sufficient food of good and wholesome quality during the continuance of the contract.

Food and  
lodging.

16. In case of any action for non-payment of wages due and payable by virtue of any contract of service being brought before any Landdrost 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 Landdrost or Court, such Landdrost 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.

Landdrost's  
(discretion as  
to rate of  
wages.

17. When any servant shall, in consequence of any sickness or accident which shall not have been occasioned by his own fault, be rendered incapable of performing his master's service, he shall, in the absence of any special provision in the contract to the contrary, be entitled to receive his full wages for the first month of such incapacity, and every other benefit, privilege, or advantage, whether for himself or his family stipulated for in the contract of service during the whole period of such incapacity, unless the stipulated term of service shall sooner expire, or unless the period of such incapacity shall extend to a longer period than two months; in which latter case the master shall be entitled, if he so think fit, at the expiration of such two months, or at any time afterwards during which such incapacity shall uninterruptedly continue, to treat and consider the contract of service as rescinded and determined to all intents and purposes whatsoever, he, the said master, being however bound before being so entitled to consider the said contract as determined, to make good all stipulations therein mentioned and agreed upon up to and for the day on which he shall declare his intention to treat and consider the said contract as rescinded, with, however, the limitation as to wages as hereinbefore provided. Provided, however, that if the master shall not think fit at or after the expiration of such two months as aforesaid, to treat the contract of service as determined and rescinded, but shall permit the servant to remain in his service, such servant shall not be entitled to claim any portion of the wages beyond wages for the first month as aforesaid, or any other benefit or advantage

Sickness.

stipulated for in the contract of service (save and except such food and lodging for himself and family as by the contract of service the master had engaged or shall be deemed and taken to have engaged to provide him with) for any period subsequent to such two months during which such incapacity as aforesaid shall continue. And provided always that no servant hired by any contract expressly to perform service in any trade or handicraft shall be entitled to receive the wages or any other benefit or advantage stipulated in the contract of service for any part of the time during which he shall have been rendered incapable of performing his master's work by any such sickness or accident as aforesaid, save and except such food and lodging for himself and family as by the contract of service his master has engaged to provide him with, such food and lodging to be provided during such incapacity as aforesaid, unless the contract of service shall sooner expire, or unless such incapacity shall extend to a period longer than one month, in which case the master shall be entitled, if he shall so think fit, under the same powers and conditions in every respect as in this section before set forth, to treat and consider such last-mentioned contract of service as absolutely and to all intents and purposes determined and rescinded.

Servant's  
wife and  
children.

18. 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 mother, of any child under the age of sixteen years to contract for the service of such child, together with his own, 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 such 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  
servant.

19. On the death of any person being at the time together with his wife and any child under contract as aforesaid, the said 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.

Wife and  
children of  
servant.

20. It shall not be lawful for any person entering into any contract of service, by which it is stipulated that the servant shall reside on the premises of the master, to keep his wife and children on the premises of his master, unless when the master shall also have 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.

21. When in times of public commotion or invasion of the Province, the Administrator shall deem it expedient to call out for service any portion of the inhabitants of any district of the Province, every person under contract of service under this law as an agricultural labourer or herdsman for any period not less than one month to any master residing in such district, shall, if the period for service contracted for should expire during the persistence of such commotion or invasion, notwithstanding such expiration, be bound to continue in the service of his employer on the terms of the contract under which he had been serving, until the cessation of such commotion or invasion, and until the services of the inhabitants of such district shall be dispensed with for the occasion; provided that if any such servant shall at any time be called out for military service, the master of such servant shall, during the absence of such servant on such duty, be bound to permit the family and property of such servant to remain upon his premises, and to provide for the same in the same manner as he would have been bound to do by the contract of service, if such servant had not proceeded to the performance of such duty.

Duties in war time, etc.

### CHAPTER III.

#### *Apprenticeship of Children.*

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 the 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.

Apprenticeships.

2. No contract of apprenticeship, by which any child under sixteen years if a female, and eighteen years if a male, may be apprenticed as an agricultural or domestic servant, shall be valid for any longer period than until such child shall have attained the full age of sixteen years if a female, and eighteen years if a male.

Time limits.

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

Children apprenticed until majority.

purposes whatsoever, save and except a contract of apprenticeship executed by the parent or guardian and the master in the presence of a Landdrost, and attested by such Landdrost to be a contract which appears to him to be for the benefit of the child.

Trade  
apprentices.

4. Any minor of the 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; provided always that in the case of such minor or minors being females they may with such consent be apprenticed to domestic service for any such period as last aforesaid.

*Ex-officio*  
guardians.

5. The Landdrosts of the Province shall be *ex officio* the guardians within their respective districts of all such minors as in the last preceding section mentioned, which minors have no parents or guardians within the Province, or none discoverable, and such Landdrosts may lawfully indenture such minors.

Destitute  
children.

6. 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 state of destitution, shall with all convenient speed give notice thereof to the nearest Field Cornet or directly to the Landdrost, 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 Landdrost or other competent Court of detaining in his possession or employment any such destitute child as aforesaid for a longer period than one month without giving such notice, every person shall forfeit and pay at a rate not exceeding twenty nor less than five shillings for each month that such child shall have been detained, and every such sum so forfeited shall be paid into the public treasury, and all reasonable expense incurred in giving such notice, and for the maintenance of such child until removed by the proper authority, shall be paid from the said treasury.

Procedure  
*re* destitute  
child.

7. The Field Cornet or Landdrost shall, upon receiving such notice as aforesaid, cause the child to be removed to the residence of the Landdrost, and the said Landdrost 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 shall have any relative fit, proper, and willing to maintain and take care of him, and if he shall discover any such relative or relatives, he shall apprentice such child either to the sole relative or to that one among the several relatives of whom it will appear most for the interests of such child to become the apprentice; and if no such fit and

proper relative be found, he shall apprentice him as soon as a suitable opportunity can be found to some 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. And every such Landdrost shall give public notice in the *Government Gazette* of the name of every such apprentice and of the person to whom he shall have been apprenticed.

8. 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 Landdrost or other officer shall deem the child's service in any part thereof will be worth wages; and in apprenticing every such child, either to a relative or stranger, it shall be the duty of such Landdrost or officer to make the best terms he can for such child.

Provisions of contract in case of destitute children.

9. 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.

District of

This contract of apprenticeship of A B (here insert the designation of A B as accurately as possible), a destitute child, witnesseth that C D (here describe C D as the Landdrost or as the officer specially appointed by the Administrator to attest such contracts of apprenticeship for the district, as the case may be), pursuant to the Law No. \_\_\_\_\_ in this case made, and provided, does by these presents, apprentice the said A B, aged \_\_\_\_\_ years or thereabouts, to E F (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 said C D for, and on behalf of the said A B, that he, the said 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 the said E F shall not assign or transfer the said apprentice to any other person, during the said term, without the consent first had and obtained of the Landdrost 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).

*Ex-officio*  
guardianship.

10. In case the Landdrost, or other proper officer by whom the contract for 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 Landdrost or officer, then, and in such case, all the provisions and covenants in such contract of apprenticeship contained shall endure in favour of the successor of such Landdrost or officer duly appointed, and such successor shall or 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 in  
duplicate.

11. 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 shall be filed and registered in the office of the Landdrost 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 by him to the Landdrost of the district in which the master by whom such contract has been made usually resides, to be filed and registered in his office.

Assignment  
of contract.

12. No master shall or may assign or transfer any apprentice having been apprenticed as aforesaid by any Landdrost or other proper officer\* *without having first obtained thereto the written consent of the Landdrost or other proper officer* of the district in which such master resides; and in case such apprentice shall be of the age of sixteen years and upwards, without consent of such apprentice himself.

#### CHAPTER IV.

##### *Respecting the Effects of the Death, Insolvency, and Change of Residence of the Master; and other Circumstances Dissolving Contracts of Service without Notice.*

Decease or  
insolvency of  
master.

1. In the event of the death or insolvency of the master the contract of service shall, except as hereafter excepted, cease and determine after one month from the date of such death or insolvency, in case the stipulated term of service shall not sooner expire; and up to the period of such determination of such contract such servant shall be entitled to claim his full

\* Words in italics are omitted in the publication of the English text of the law in *Gazette* of 25th June, 1880; they appear, however, in the Dutch text in the same *Gazette* and in the *Lokale Wetten*, 1849-1885.

wages and every other remuneration specified in such contract, and shall be bound, if required, to perform his service for the person legally representing the deceased or insolvent master.

2. In the event of the death or insolvency of the master of any apprentice, or in the event of the apprentice being prevented, in the manner hereinafter in the sixth section of this Chapter particularly mentioned, from performing his service or fulfilling his engagement at the place where the same ought to be performed or fulfilled, such death, insolvency, or prevention, shall be a complete discharge of the contract of apprenticeship, and if any sum shall have been really and bona fide paid by or on behalf of such apprentice as aforesaid, it shall be lawful for any Landdrost having jurisdiction, or other competent Court, upon proof of such payment, to order in a summary manner any sum, which to the said Landdrost or Court shall seem reasonable, to be paid to or for the use of such apprentice as aforesaid by any such master as aforesaid, or his legal representative; regard being had, however, in estimating such sum to the amount of the sum originally paid by or on behalf of such apprentice, and to the time during which such apprentice continued in the service of such master as aforesaid; provided always that such apprentice shall be entitled to his full wages or other remuneration which may have become due previous to such dissolution of the contract of apprenticeship.

Refund of premium in certain cases.

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 Landdrost or other proper officer in the manner hereinbefore set forth, it shall be the duty of such Landdrost 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 retake 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 law for the duration of apprenticeship to such fit and proper person as such Landdrost 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 be necessary in any case.

Death or insolvency of master of destitute apprentice.

4. The wife of the deceased master of every servant or apprentice hired or contracted to perform service as a domestic or agricultural servant is entitled, if she shall so think fit, to claim the service of such servant or apprentice 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 or apprentice which the master was bound to perform.

5. In any event of a servant or apprentice dying during the currency of the stipulated term of service, his heirs, executors, or other legal representatives are entitled to claim

Death of servant, etc.

from the master the full wages and other remuneration due to such servant or apprentice for the period which he had served previously to his death, and no more.

Change of  
residence.

6. No servant or 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 servant or 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 servant or apprentice is not bound to reside in the house or on the premises of his master, or out of the district of such town or place where such servant or 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 such servant, or 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 servant or apprentice, being one not bound to reside in the house or on the premises of his master, has performed, or in the case of an apprentice being knowingly permitted and allowed by his parent or guardian to perform 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, and in the case of an apprentice been permitted and allowed by his parent or guardian to go to and remain in such house or on such premises for one week after his master's removal thereto.

Change of  
residence  
(*continued*).

7. 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 this Province, upon giving notice of his intention of so doing before his departure to the Landdrost of the district which he is going to leave, and the Landdrost shall, upon receiving such notice, endorse the same upon 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 Landdrost of the district to which such an apprentice shall be removed, to be by him duly registered and filed in manner hereinbefore provided.

Journeys.

8. 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 Province, 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 Province on which his master shall order him to go, or in charge of or to drive, herd, tend, or 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, or take care of or charge of at his master's residence or on his premises; provided always that there shall be reasonable ground for believing that such journey may and will be performed before the expiration of the stipulated term of 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 his master before the expiration of the term of service.

9. No servant or apprentice shall be bound to accompany his master or to go out of this Province, without the special agreement or consent of such servant, or of the parent or guardian of such apprentice, or when such apprentice is of the full age of sixteen years without also the consent of such apprentice.

Servant not compelled to leave Province.

10. When any servant not being bound or obliged 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 to which the master shall order such servant to go, shall decline or refuse so to do, the contract of service shall, from the date on which the servant shall be prevented from performing his stipulated service at the place where the same was to have been performed, stand dissolved, and such servant shall be entitled to claim from the master such wages or other remuneration at the rate specified in the contract of service as shall have been earned up to the time of the refusal before mentioned, together with wages and remuneration after the rate aforesaid for the period of one month additional, or until the expiration of the contract of service in case it shall expire within one month of the time of such refusal; provided always that when notice of his intention to remove as aforesaid or to send such servant as aforesaid shall have been given by such master, such additional wages and remuneration shall not in any case be due or payable for any period longer than one month from the date of such notice.

Where contract terminated by change of residence.

11. 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.

Special conditions as to change of residence.

Marriage of  
female  
servants, etc.

12. 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, but shall be liable to her master for all damage which her master may sustain by such removal. But such damages shall in no case exceed the amount of the wages which she would have earned between the time of her marriage and the time of the expiration of her service had she continued in such service until such expiration.

Ditto.

13. 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 Province is or shall be reputed to be the marriage state, shall, where such servant or apprentice is by her contract of service or apprenticeship bound to reside or to perform domestic service in the house or on the premises of her master, be entitled at any time subsequent to such marriage, or reputed marriage, to dissolve such contract and dismiss such servant or apprentice and when such servant or apprentice is not by such contract bound to reside or to perform domestic service in the house or on the premises of her master, he shall be entitled to dissolve such contract and dismiss such servant or apprentice from his service whenever she shall by reason of her pregnancy or delivery of a child become disabled from performing the service which by such contract she is bound to perform, but any such servant or apprentice so dismissed on account of her marriage or entering into a state so reputed as aforesaid to be the marriage state, or of pregnancy or delivery of a child, shall be entitled to claim from her master the wages and every other remuneration which shall have become due to her for her services previously to the date of such dismissal; and the master before being entitled to dismiss such servant or apprentice shall be bound to pay and satisfy the same.

#### CHAPTER V.

##### *Of the jurisdiction of the Landdrosts in cases between Masters and Servants and Apprentices.*

Jurisdiction.

1. The Landdrosts within this Province shall have jurisdiction in all cases arising in their respective districts 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 law.

Ditto.

2. Every Landdrost has jurisdiction in any such case as aforesaid, brought before him against any person being at the time within his district, whether the grounds 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 Landdrost shall, whenever it shall appear to him that any such case can be more conveniently tried or determined by the Landdrost of any other district, 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 a fact, such Landdrost 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 Landdrost is held; provided the master shall undertake to pay the expense of such conveyance, and the Landdrost, by whom the cause shall be ultimately tried and decided, shall adjudge by which of the parties the said expenses shall be paid.

3. Any servant or apprentice may be fined any sum not exceeding one pound sterling, and in default of payment of the same may be imprisoned, with or without hard labour, for any period, not exceeding one month, in case he shall be convicted of any of the following acts or instances of misconduct, that is to say,

Penalties,  
Class I.  
Agricultural  
or farm  
servants.  
(See Art. 8.)

- (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;
- (3) if he shall, during working hours, unfit himself for the proper performance of his work, 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 without leave, and for his own purposes, make use of any horse, vehicle, or other property belonging to his master;
- (6) 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;
- (7) 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;
- (8) 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.

Second  
Conviction.

4. 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 Landdrost 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 is mentioned, and upon a conviction under the next ensuing section of this law, 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.

Penalties  
Class II.  
Agricultural  
or farm  
servants.  
(See Art 8.)

5. Any servant or apprentice 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 Landdrost, 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, subject as hereafter is mentioned, in case he shall be convicted of any of the following acts or instances of misconduct, that is to say,

- (1) if he shall by wilful breach 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;
- (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 of 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;

- (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, depart from his master's service with intent not to return thereto.

6. In the 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 Landdrost, 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 Landdrost 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 conviction under the *second* section of this law, 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.

Second and subsequent convictions.

7. No fine paid or period of imprisonment undergone, under this law, by a servant or apprentice shall have the effect of cancelling the contract of service or apprenticeship.

Penalty, etc., not to affect contract.

8. Nothing in any of the preceding sections, from *second* to *sixth*, both inclusive, nor in section *nine*, shall extend or apply to servants or apprentices under the age of sixteen years, or to servants or apprentices other than those engaged in agriculture, or employed to work on farms; provided, however, that any servant or apprentice other than those engaged in agriculture or employed to work on farms as last mentioned, not being under sixteen years of age, may,

Penalties, Class III.

Domestic servants.

- (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;
- (3) if he shall, during working hours, unfit himself for the proper performance of his work 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, without leave, or for his own purposes, make use of any horse, vehicle, or other property belonging to his master;
- (6) 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;
- (7) 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;
- (8) 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 forwarding in safety any property placed by his master in his charge for delivery to or on account of his master;
- (9) 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;

be fined any sum not exceeding two pounds, and in default of payment be sentenced to be imprisoned, with or without hard labour, for any period not exceeding one month; but if it shall appear that such servant or apprentice is able to pay the damage caused by such act or default as in this section aforesaid, it shall be competent for the Landdrost, whether the master shall agree thereto or not, to proceed under section *fourteen*\* of this chapter.

Resumption  
of service  
after punish-  
ment.

9. If any servant or apprentice whose contract of service or apprenticeship still subsists, shall, upon being discharged from prison, after undergoing imprisonment under this law, 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 contract; and every such period of imprisonment, or so much thereof as the convicting Landdrost shall adjudge, may be with solitary confinement, with or without spare diet, or with spare diet, with or without solitary confinement, subject as hereafter is mentioned; provided, however, that no servant or apprentice shall under

\* The section is given as *twelve* in the Dutch text (*Gazette*, 25th June, 1880), and in *Lokale Wetten*.

this law be imprisoned continuously, and without any intermediate resumption of service under his contract for longer than six months in all.

10. When any period of imprisonment shall be undergone by any servant or apprentice for any offence under this law, a like period shall be added to the term of service stipulated for in the contract of service or apprenticeship as it subsisted when such imprisonment was commenced, so that such servant or apprentice shall be obliged to serve a further period equal to the period of his imprisonment, in addition to the term of service originally stipulated:

Term of imprisonment, etc., added to term of service.

11. When the offence of which any servant or apprentice shall be convicted under this law, shall be the offence of absenting himself from, or of departing from the service of his master, then the period of his absence shall be added to the term of service originally stipulated in like manner as in the last preceding section directed in regard to the period of imprisonment therein mentioned; and it shall be the duty of the Landdrost convicting such servant or apprentice to ascertain at the trial the period of absence, and to certify the same by some writing under his hand to be delivered to the master, and the period mentioned in such writing shall by all Courts and in all places be deemed to be added to the original term of service.

12. As often as any property of the master shall be lost or damaged by means of any act or omission of his servant or apprentice, which act or omission is by this law declared to be an offence, it shall be lawful for the Landdrost, should he so think fit, and the master shall thereto agree, to ascertain whether such servant or apprentice 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 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 Landdrost 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 or apprentice, 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 or apprentice has made or failed to make the compensation ordered, shall appear equitable and just.

Loss of master's property, etc.

13. As often as the master of any servant or apprentice who shall be convicted of any offence under this law shall desire the cancellation of the contract of service or apprenticeship, the Landdrost, 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 Landdrost may pronounce or may have pronounced upon the offender for his offence.

Cancellation of contract.

Landdrost's  
discretion in  
cancelling  
contract.

14. As often as the master shall have caused any servant or apprentice to be brought before the Landdrost to answer any charge preferred against him by such master, and such master shall fail in obtaining the conviction of such servant or apprentice, then the Landdrost, should he so think fit, may at the desire of such servant or apprentice order the cancellation of the contract of service or apprenticeship, and the same shall be cancelled accordingly.

Time limits  
for  
complaints.

15. No servant or apprentice shall be convicted under any of the foregoing sections of this law unless the master shall lodge his complaint within one month next after the day on which he became cognizant of the offence or alleged offence.

Warning to  
appear in  
Court.

16. In order to save time and expense, the master of any servant or apprentice alleging matter of complaint against such servant or apprentice, may warn and order such servant or apprentice to appear before the Landdrost of the district, 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 Landdrost, 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 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 proceed* to the trial of the complaint; and on such trial, and if the servant or apprentice shall be convicted of the offence with which he shall be charged, the Landdrost 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 of 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.

Complainant  
not appearing.

17. 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 Landdrost, 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

\* Words in italics omitted in English text (*Gazette*, 25th June, 1880), but appear in Dutch text and Lokale Wetten.

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 may have brought with him as witnesses, and shall, upon being satisfied that such witnesses would or might have been necessary for his defence, make order in writing against such complainant for the payment of the expenses of such defendant 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 Landdrost 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.

18. Should any servant or apprentice, who shall have complained against his master, for or on account of any offence against any of the provisions of this law, fail to appear at the time fixed by the Landdrost for the appearance of the defendant, then and there to prosecute his complaint, the Landdrost 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 last preceding 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 last preceding section mentioned, order the payment by 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 last preceding 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.

Servant or  
apprentice  
not appearing.

19. No servant or apprentice, 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 law.

Servant  
leaving  
service to  
lodge  
complaint.

20. A servant or apprentice summoned to answer for an offence alleged in the summons to be in contravention of the *third* section of this Chapter, should the proof given in the

Conviction  
under Art. 3  
on charge  
under Art 5,  
and *vice versa*.

case show that he is guilty of contravening not the *third*, but the *fifth* section of this Chapter, may be convicted and sentenced according to the evidence; and, in like manner, a servant or apprentice summoned to answer for an offence alleged in the summons to be in contravention of the *fifth* section aforesaid, should the proof given show that he is guilty of contravening not the *fifth*, but the said *third* 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 *third* section; provided, also, that the servant or apprentice shall have had in every case sufficient notice of the nature of the charge which he was called upon to answer.

Withholding  
wages.

21. As often as the master of any servant or apprentice shall be convicted of the offence of withholding the wages of such servant or apprentice, ~~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 Landdrost 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, 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 Landdrost, together with the costs of such levy; provided, however, that when and as often as the Landdrost shall acquit the master of the aforesaid offence, but shall yet find that wages are due by such master to such servant or apprentice which have been retained by such master, it shall be lawful for such Landdrost, and he is hereby required forthwith to give judgment for the amount of wages which 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 Landdrost to be in accordance with real and substantial justice.

Unlawful  
deduction of  
servant's  
property.

22. As often as the master of any servant or apprentice shall be convicted of the offence of having, either before or after the expiration of the contract of service *in*\* apprenticeship, upon demand made and without lawful cause, refused to deliver or permit to be taken away any of such servant's or apprentice's cattle, sheep, goats, or other animals lawfully remaining or being upon such master's lands, 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 the fine so payable shall not exceed the sum of five pounds sterling altogether; and in default of payment,

\* Clearly an error—it should be “or”; see Dutch text (*Gazette*, 25th June, 1880).

shall be imprisoned for any period not exceeding one month; and the convicting Landdrost 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 *twenty-first* section directed—but the fact that the contract of service or apprenticeship of such servant or apprentice has not yet expired, shall not be deemed or taken to be of itself reasonable or proper 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 retain any such animals as aforesaid.

23. As often as the master of any servant or apprentice shall be convicted of the offence of failing, upon demand, to supply or deliver to such servant or apprentice the food, bedding, or other articles stipulated for in any written contract of service or apprenticeship, 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.

Master failing to supply food, etc.

24. As often as it shall be made to appear to the Landdrost, in any case instituted by any servant or apprentice against his master, that the master has not fairly and faithfully performed his part of the contract of service or apprenticeship, the Landdrost may, should he so think fit, and should the servant or apprentice so desire, order the cancellation of such contract of service or apprenticeship, and the same shall be cancelled accordingly.

Cancellation of contract.

25. As often as any master shall complain against his servant or apprentice, or any servant or apprentice shall complain against his master, for or on account of any offence against the provisions of this law, the process of the Court of the Landdrost 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 the 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.

Costs of witnesses, etc.

26. As often as any master shall be convicted of wrongfully and unlawfully assaulting his servant or apprentice, the convicting Landdrost may, should he so think fit, and should the servant or apprentice so desire, order the cancellation of the contract of service or apprenticeship, and the same shall be cancelled accordingly.

Wrongful assault by master.

Wrongful  
detention of  
child.

27. If any child under the age of sixteen years shall be wrongfully detained, by any person, as a servant or inmate, the Landdrost of the district in which it shall be so detained, shall have jurisdiction to order the restoration of such child to such of its parents as would under this law be entitled to apprentice such child, if then about to be apprenticed; provided, however, that should it be made to appear upon the hearing of any such case that the person complained against originally obtained the said child in a lawful manner, and when an infant under the age of five years, and that the parent claiming the same has so acted, in reference to the said child, and to the person bringing it up, as to make it a breach of good faith, on the part of such parent, to seek to take it away, as he or she now seeks to do, and that from the character of the said parent, the purpose for which he or she appears to desire to obtain possession of the said child, or other circumstances, it will be for the manifest benefit of the child to remain with the person with whom it is residing, rather than to be delivered to the parent applying, then the Landdrost shall refuse to order the delivery of the said child, leaving it to the parent applying for the same to take such other proceedings, if any, as he or she may be advised; and such Landdrost may in the meantime authorise the person rearing up such child to retain possession thereof.

Attorney-  
General (if  
required) to  
act for servant  
on appeal.

28. In any case between a master and his servant or apprentice in which the Landdrost 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 Attorney-General, in case such appeal or application shall be brought before the High Court (provided the said Attorney-General shall be called on so to do), to appear for and conduct the case of such servant or apprentice, free of all charge or expense whatever.

Apprehension  
of servant.

29. If the master of any servant or apprentice alleging matter of complaint against a servant or apprentice for any offence punishable under this law, shall make deposition on oath before a Landdrost or Justice of the Peace that he believes, "stating the grounds of his belief," that in order to secure the appearance of such servant or apprentice before the Landdrost having jurisdiction to try the case, that the apprehension of such servant or apprentice is necessary, it shall be lawful for such Landdrost or Justice of the Peace to issue his warrant for the apprehension of such servant or apprentice, without any previous warning or summons; provided, however, that if the master of any servant or apprentice 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.

Apprehension  
of servant on  
desertion.

30. If any servant or apprentice is charged under this law with having without lawful cause departed from his master's service with intent not to return thereto, it shall be

lawful for any Landdrost or Justice of the Peace to issue his warrant for the apprehension of such servant or apprentice without any previous warning or summons.

31. On the trial of any case in any Court of Landdrost wherein any master, servant or apprentice, is charged with having contravened any of the provisions of this law, such master, servant or apprentice, as the case may be, and his or her wife or husband, shall be competent, but not compellable, to give evidence on his or her own behalf or on the behalf of the complainant in the said case. Evidence.

32. No master, servant, or apprentice charged with having contravened any of the provisions of this law, 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; provided that if, in the opinion of the Landdrost before whom the charge is heard, it shall be necessary, in order to secure the attendance of such master, servant or apprentice, that he should be placed in custody, it shall be lawful for such Landdrost to cause such person to be arrested and detained in custody. When master or servant not compelled to enter dock.

33. In case it may be necessary to prosecute or proceed against any person employed on any of the public works of this Province, for contravening any of the provisions of this law, 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. Public works.

34. In regard to the infliction of spare diet and solitary confinement under this law, the Landdrost shall observe and conform to such restrictions as shall have been or shall from time to time be deemed necessary to prevent injurious consequences, and to be by the officer administering the Government issued for their guidance. Spare diet.

#### CHAPTER VI.

##### *Respecting Characters given by Masters to Servants and Apprentices.*

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. Character.

2. Every master who shall knowingly have given any false character to 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. Giving false character.

Forging  
certificate.

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 a counterfeit and utter any certificate of such servant 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 or certificate of character of any such servant or apprentice, or other person offering or intending to offer to hire himself as a servant; and every person who shall offer to hire *himself*\* 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 anywise 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, with or without hard labour, for any period not exceeding one year nor less than one month, or to both such fine and imprisonment.

#### CHAPTER VII.

##### *Respecting the Constraints of Masters, Servants, and Apprentices.*

Intimidation  
and threats,  
etc.

1. Any person, who shall by violence to the person or property, or by threats or intimidation, 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, or endeavour to force or induce any such servant or apprentice, or such other person to belong to any club or association, or to contribute to any common funds, or shall use or employ violence to the property of another, or threats or 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 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, intimidation, molestation or obstruction, shall force or

\* This word left out in English text, but appears in Dutch text (25th June, 1880).

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 limit the number of his apprentices or servants, shall on conviction thereof before any Landdrost or other competent Court be imprisoned, with or without hard labour, for any period not exceeding three months.

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 Landdrost, incur or be liable to a fine not exceeding ten pounds sterling, and in default of payment, to imprisonment, with or without hard labour, for any period not exceeding three months.

Including servant to leave another's service.

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 price 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 rate of wages or prices 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 or their 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, 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.

Lawful unions.

4. This law may be cited and referred to for all purposes as "The Master and Servants Law, 1880."

Short Title.

5. This law shall commence and take effect from and after the date of the publication thereof in the *Transvaal Government Gazette*.\*

\* Published in *Government Gazette* of 25th June, 1880.

*Repealed by no 16 of 1913*

## LAW No. 15, 1880.\*

(Enacted by the Administrator of the Transvaal Province, with the advice and consent of the Legislative Assembly thereof.)

TO MAKE PROVISION FOR THE PROTECTION OF FORESTS, AND FOR THE PREVENTION OF THE UNLAWFUL CUTTING DOWN THEREOF, AND FOR THE OBSERVANCE OF REGULATIONS FRAMED IN REFERENCE THERETO.

Whereas it is expedient to amend the law relating to forests, and to empower the passing of such rules and regulations as may from time to time be found necessary for the better preservation of and protection of the revenue derivable from the forests of this Province;

Be it therefore enacted by the officer administering the Government of the Transvaal Province, with the advice and consent of the Legislative Assembly thereof as follows:—

Repeal.

1. The Law No. 8 of 1870, entitled "Law against the destruction of forests, approved and confirmed by virtue of resolution of the Volksraad, dated 19th May, 1870, articles 108 to 111," shall be, and the same is hereby repealed: Provided that such repeal shall not invalidate or affect anything lawfully done, or any licences issued under any such law previously to the passing of this law. And save only and except so far as regards all offences against and all penalties and forfeitures incurred under said law, and all proceedings taken or commenced before this law shall come into operation under or in execution of the said law; 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.

Licence.

2. Every person who shall, without having a lawful licence or permission, or other lawful authority so to do, cut down or cause to be cut down any tree growing in any crown forest, or on any crown or other land in this Province, shall be deemed to be guilty of the crime of contravening this section of this law, and shall upon conviction be liable to a fine not exceeding one hundred pounds, and in case such fine shall not be paid, to imprisonment with or without hard labour for any period not exceeding six months, or to such fine and such imprisonment, or to such imprisonment without such fine.

Penalty.

Exception from penalty.

3. If any person accused of contravening the last preceding section shall prove to the satisfaction of the Court or jury by which he shall be tried, that he had reasonable and probable cause for believing that the tree cut down, or caused

\* Assented to; see Government Notice No. 61, 1881, in *Gazette*, p. 200.

to be cut down by him, was standing on the land of such person himself, or of some other private person, whose leave and licence for cutting down trees in such land such person so accused had obtained, then such person shall be acquitted of the criminal charge aforesaid.

4. Every person who shall wilfully or by gross carelessness set fire to, or kindle any fire which, by spreading, shall set fire to any tree, bush, bushwood, or underwood, not his property, shall be deemed to be guilty of the crime of contravening this section of this law, and shall, upon conviction, be liable to the like penalties as are contained in the second section.

Fires.

5. Every such person as aforesaid, whether prosecuted or not prosecuted, shall be liable in a civil action to be instituted by the party aggrieved, to pay and make good the amount of all damage done by such cutting down or burning.

Damage by fire.

6. Every person who shall receive any tree or part or parts of any such tree, knowing at the time of such receipt that the same had been cut down in a crown forest, or on crown or other land without any lawful licence or permission for so doing, shall be deemed to be guilty of the crime of contravening this section of this law, and shall, upon conviction, be liable to the penalties hereinbefore in the second section of this law provided.

Knowingly receiving timber unlawfully cut.

7. Nothing in this law contained shall extend to alter in reference to the wrongful and unlawful destroying, carrying away or receiving of trees or timber cut down in any crown forest or on any crown or other land, the law of this Province relating to the crime of theft, or to the crime of receiving stolen goods knowing them to have been stolen, or the crime of maliciously setting fire to or burning any description of property; provided that no person shall be twice prosecuted for or in regard of the same act of cutting down or of burning.

Common law not affected.

8. If any servant shall, when acting under the direction or command of his employer, by omission or any act of commission, infringe any of the provisions of this law, then such employer and servant may both or either of them be prosecuted, and if convicted, be punished under this law.

Employer's liability for acts of servant.

9. In the construction of this law the term tree shall mean any tree, whether young or old, of a sort or description ordinarily used in making wagons or other vehicles or articles of furniture, or for building purposes, or for some other purpose of a like nature with some one or more of the purposes aforesaid, but not any other sort or description of tree nor brushwood, underwood, or wood used as firewood.

Term "tree."

10. It shall and may be lawful for the officer administering the Government of the Transvaal Province, to appoint so many Conservators and Assistant Conservators of the Forests and other officers as to him may seem necessary, and to pay such persons such remuneration by way of fees or salary as may from time to time be voted by the Legislative Assembly, and be available for such purpose.

Conservators of Forests.

Bye-laws.

11. The officer administering the Government of the Transvaal Province with the advice and consent of his Executive Council, may from time to time make, alter, or repeal such regulations and bye-laws as he thinks proper for any of the following purposes:—

- (1) For regulating the duties of Conservators and Assistant Conservators of Forests and other officers under this law, and prescribing what acts or omissions by such officers shall be punishable by penalties as breaches of such regulations or bye-laws, and for prescribing and regulating the powers of such officers in, and for preventing the cutting, removing, and destruction of timber contrary to the regulations or bye-laws framed under the provisions of this law.
- (2) For prescribing the mode and form of application for leases or licences of, or the grants of privileges in crown forests and the terms and conditions of such leases, licences, and grants.
- (3) For the management and administration of the affairs of crown forests in this Province.
- (4) For regulating the seasons at, and mode in which the lessees, licensees, or grantees of privileges may fell trees in such forests, and cut or remove timber or bark therein, or therefrom.
- (5) For requiring such lessees, licensees, and grantees to take from all trees cut down all the timber fit for use.
- (6) For preventing all unnecessary destruction of growing timber in crown forests.
- (7) For preventing the danger and spread of fire in crown forests.
- (8) For prohibiting trespassing on crown forests and for regulating access thereto.
- (9) For the protection of roads in crown forests.
- (10) And generally for facilitating and more effectually carrying into execution the objects of this law.

Any such regulations and bye-laws may be made applicable to crown forests under this law generally, or to one or more of such forests in particular, and when published in the *Government Gazette*, shall have the force of law as if they formed part of and were embodied in this law. And the officer administering the Government of this Province, with the advice of the Executive Council as aforesaid, may, by any such regulation or bye-law to be made under this law, impose reasonable penalties not exceeding twenty-five pounds sterling for any one offence. Such penalties shall be recoverable at the instance of the Public Prosecutor of any district in the Court of the Landdrost having jurisdiction.

Short Title.

12. This law may be known and cited for all purposes as the "Forest Preservation Law, 1880."

13. This law\* shall commence and take effect from and after such date as the regulations† and bye-laws, to be framed under the provisions of this law, are published in the *Government Gazette*, and the coming into force of this law is notified by proclamation.‡

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\* Published in *Government Gazette* of 25th June, 1880.

† The regulations were published by Government Notice No. 5, 1881, (*infra*), and by Government Notice No. 26, 1881 (*infra*).

‡ This has not yet been done.

## PROCLAMATION (16th December, 1880).\*

(Issued at Paardekraal, District Pretoria, by the Triumvirate, S. J. P. Kruger, Vice-President; M. W. Pretorius, and P. J. Joubert.)

Republican  
Government  
restored on  
13th Decem-  
ber, 1880.

Section 31. We therefore notify to everybody that the Government has been re-established on the 13th December, 1880; Mr. S. J. P. Kruger is acting as Vice-President, and will form, with Messrs. M. W. Pretorius and P. J. Joubert, the triumvirate which will carry on the government of the country.

The Volksraad has resumed its sessions.

Proclamation  
of martial  
law.

And finally we notify to one and all that from to-day the country is declared to be in a state of siege, and under the provisions of martial law.

\* Accepted as Notice by V.R.R. 15/4/81, Art. 8, in *Staatskoerant* 30/4/81; see also V.R.R. 8/11/81, Art. 368 (cancelling a British proclamation dated 11th June, 1881, on ground that same was issued after conclusion of peace—not published); Government Notice 52, 16/5/81 (agreement with Boer leaders as to levy of taxes—not published); V.R.R. 26/10/81, Art. 198 (*infra*).

**1881.**

## LAW No. 7, 1881.

(Enacted by the Governor of the Transvaal Province, with the advice and consent of the Legislative Assembly thereof.)

## TO AMEND THE LAW AS TO IMPRISONMENT FOR DEBT.

Whereas it is expedient to provide against the hardships frequently occasioned by the enforcement by creditors of writs of civil imprisonment against defaulting debtors:—

Be it therefore enacted by the Officer administering the Government of the Transvaal Province, with the advice and consent of the Legislative Assembly thereof, as follows:—

1. No writ of civil imprisonment for non-payment, or non-satisfaction of any judgment or decree shall be granted or issued by the High or any other Court of this Province in cases in which the defendant or other party, against whom such writ of civil imprisonment is sought to be issued, shall prove to the satisfaction of the Court to which such application is made, that such defendant or other party as aforesaid has not property or means sufficient to satisfy in whole or in part the said judgment or decree.

2. This law shall commence and take effect from and after the promulgation thereof in the *Government Gazette*.\*

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\* Published in *Government Gazette* 15th February, 1881.

## GOVERNMENT NOTICE No. 5, 1881.

With reference to Law No. 15, 1880, the following regulations are published for general information.

By command of His Excellency.

GEORGE HUDSON,  
Colonial Secretary.

Colonial Secretariat,  
Transvaal, 17th January, 1881.

REGULATIONS PASSED UNDER THE PROVISIONS OF SECTION *eleven*  
OF LAW No. 15, 1880.

General  
duties of  
forest officers.

1. It shall be the duty of every conservator, overseer or ranger to prevent the cutting, removing or destruction of timber, and to apprehend and convey to the nearest landdrost or justice of the peace all persons found cutting or removing timber contrary to law; and, further, to take such precautionary measures for the preservation or restoration of forests as may be directed by, and be in accordance with, departmental instructions.‡

Licence to cut  
or saw timber.

2. Licences to cut or saw timber in Government forests or reserves shall be obtainable from the overseer in charge, or, in the absence of such officer, from such other officer as may be authorised by His Excellency the Administrator to grant licences in the forests whence it is intended to remove the timber. A fee of 2s. 6d. shall be paid in respect of such licence, which shall be in the form given in Schedule I.

Limitation of  
operations  
under such  
licence to  
defined area,  
etc.

3. Operations under such licence shall be restricted to a specified section or allotment of the forest, and continued for a stated period only; that is to say, in the case of resident sawyers, for a period of thirty days from the date of issue, and, in the case of non-residents, for a period not exceeding fifteen days; such licences to be renewable on payment of an additional fee of 2s. 6d. on each occasion of renewal.

Penalty for  
infringement  
of foregoing  
sections.

4. Any person acting contrary to the provisions of rules *two* and *three*, except on permission specially obtained from the Government, shall be liable, on conviction, to a fine not exceeding £25 sterling.

Allotments to  
be worked out  
previous to  
the assign-  
ment of  
further  
sections.

5. A licensee shall not be permitted to fell timber in any other section than that originally allotted to him, so long as mature timber of a suitable nature remains in such allotment.

Timber felled by any licence holder having a length exceeding 8 feet and a diameter of 9 inches or more, shall be worked on the spot and removed beyond the limits of the original allotment before another section be assigned to him.

Prohibition of  
removing of  
large sized  
timber *en bloc*,  
except on  
special  
sanction.

6. The dragging of timber through forests being attended by pernicious results in the destruction of young trees, the removal beyond forest limits of unsawn timber is prohibited, unless the previous written sanction of the landdrost of the

‡ See Govt. Notice No. 26, 1881 (*infra*).

district, or of the overseer be obtained. Such sanction shall not be accorded unless such officer be satisfied of the remover's intention to make use of the block or blocks intact.

Any one contravening this rule shall be liable to a fine not exceeding £25 sterling, and to have his licence cancelled.

7. Fees according to the tariff specified in Schedule II shall be due in respect of timber removed from Government forests, and shall become payable before such timber be taken beyond forest limits.

Impost liable on timber removed from forest limits.

8. The overseer, or in the absence of such officer, the ranger in charge of any forest or reserve shall, on the payment of the fees above referred to, grant a transit pass, as nearly as possible according to the form in Schedule III. (This pass should be retained by the transport rider, or such other person as may be entrusted with the conveyance of the timber to its destination.)

Transit permit to be granted on payment of impost.

9. All landdrosts, field cornets, forest officers, and justices of the peace, or other Government officers, are authorized to demand the production for inspection of the permit under which timber may be in transit.

Penalty for non-production of transit permit.

In default of compliance with such demand, the person so refusing shall be liable, on conviction, to payment of a fine not exceeding £25 sterling. This penalty shall in nowise absolve such person from any liability he may have incurred under clause *two* or *six* of the Forest Law No. 15, 1880.

10. Timber removed from a private forest shall be covered by a pass granted by the owner of such forest or his authorized agent. Such pass shall further be countersigned by the field cornet of the ward in which the forest is situated.

Timber removed from private forests also to be covered by pass.

The definition of the term tree contained in section *nine* of the Forest Law shall be applicable to the term timber made use of in this rule.

Definition of the term timber.

11. The penalty prescribed in rule *nine* shall be applicable in respect of timber removed from private forests, and which may not be covered by a transit pass granted in the manner aforesaid.

Penalty in respect of private timber not covered by pass.

12.\* When in order to secure the better preservation and development of forests, certain areas may be from time to time closed to the public, such reserves will be duly specified in the *Government Gazette*, and the period for which they are to remain closed stated. Any person found cutting, removing or destroying timber within such reserve subsequent to such notification shall, on conviction, be liable to a fine not exceeding £25 sterling. All cattle found trespassing within such reserve shall be impounded.

Government reserves—penalties for trespassing on the same.

13. With a view to securing the detection and punishment of offenders against the provisions of section *four* of the Law 15, a reward not exceeding £10 shall be granted to such person as may afford information leading to the conviction of the offender.

Reward on conviction of person found guilty of causing damage by fire.

\*As to closing of certain Government forests Pilgrims Rest and Lydenburg, see Govt. Notices Nos. 508, 1906, and 463, 1907.

Grant of plots of land for resident sawyers.

14. For the comfort and convenience of resident sawyers, the officer in charge of any forest is authorized to permit the occupation, rent free, of a plot of ground not exceeding two acres in extent by each family, provided that a member of such family be actively engaged as a sawyer or cutter. Such plots, however, will be liable, at the pleasure of Government, to immediate resumption or to assessment at the rate set forth in the next following rule.

Building sites for residence of traders or others.

15. For the convenience of traders and others, temporary building sites, not exceeding one acre in extent, may be granted at the discretion of the officer in charge of forests, and subject to the approval of Government, on the payment of an annual ground fee of £1. Such plots will be subject to resumption on six months' notice given through the forest officer.

Removal of buildings.

16. Buildings and erections of whatever kind or description which may be placed upon any such building sites or plots of ground, may be removed by the person erecting the same, but in no case will the Government be or hold itself responsible for compensation to any person who neglects or refuses to remove any such building or erection during the period of his occupation, or when requested so to do at the close of his term of occupation.

Squatting of natives and establishment of mealie gardens prohibited.

17. The squatting of natives and the establishment of mealie gardens within forest limits is strictly prohibited except within the areas referred to in rules *fourteen* and *fifteen* above.

Fees, with exception of ground rents, to be levied in stamps.

18. Fees levied under the provisions of these rules, with the exception of those referred to in sections *fourteen* and *fifteen*, shall be taken in revenue stamps. These stamps shall be affixed in such manner on the licence or permit that, on separating such licence or permit from its counterfoil, a moiety of the stamp may remain affixed to the licence or permit.

SCHEDULE I.

COUNTERFOIL.	LICENCE TO CUT AND SAW TIMBER.
No.	No.
Name of Licensee.	Permission is hereby given to
Name of Forest.	to cut or saw timber in Section
No. of Section.	No. of the Forest (or reserve)
Period.	for a period of
Date.	days.
Signature of Forest Officer.	Forest Officer.

Stamp 2s. 6d.

Date.

SCHEDULE II.\*

SCHEDULE III.

COUNTERFOIL.	TRANSIT PASS.
No.	No.
To whom granted.	Permission is hereby given to
Nos. of Licences under which cut and names of forests.	to remove the
Description and quantity of timber.	below-mentioned quantity and description of timber felled and sawn under Licences Nos. in the Forest (or reserve). Fees amounting to £ : s. d. have been paid this date on account of such timber, which is intended for removal to the district of
Fees paid.	
Destination.	
Date.	Description and quantity.
Signature of Officer.	Forest Officer.
	Date.

Stamps of value of fees to be cut in half.

GOVERNMENT NOTICE No. 26, 1881.

The following departmental instructions issued in connection with Rule I, Government Notice No. 5 of 1881, are hereby published for general information.

By command of His Excellency.

C. E. STEELE,

Finance and Revenue Commissioner.

Pretoria, 4th March, 1881.

DEPARTMENTAL INSTRUCTIONS FOR THE GUIDANCE OF FOREST OFFICERS.

1. The forest areas should be divided into sections suitable for future allotments to working parties. Working lots.

2. The size of the sections must necessarily vary in extent; they should, however, be made as small as practicable. In all probability it will be found that blocks having a bottom width of 530 yards, or thereabouts, will be the most convenient. Size.

Each section must be numbered and registered. They should be demarcated by stumps (natural or otherwise) placed at short intervals. The number of the sections should be shown, and arrows pointing out the direction of the boundaries painted or carved on the stumps.

3. To every section should be given a separate folio, in a register to be kept as a perfect record of the extent to which each section is worked.

4. On application being made for permission to fell timber in the forests, a licence will be granted on payment of the prescribed fee. The fee shall be levied in stamps, which are to be affixed in such a manner that on separating the licence from the counterfoil a moiety of the stamps may remain affixed to the licence. Licences.

\* Cancelled by Govt. Notice No. 134, 1884, which was again repealed by Govt. Notice No. 1122, 1906, in *Government Gazette*, 2nd November, 1906.

Licences. 5. The period for which the licence is to remain in force, together with the serial number of such licence, should be given in the register referred to in paragraph 3. Any renewal of licence for continued working in the section should also be noted.

This register is intended, in fact, as a record of all the information contained in the licence granted from time to time in respect of each section of the forest.

Growth of new timber. 6. As the different sections become cleared of mature timber, they will be closed for a term of years sufficient to allow of the restoration of forest growth. The period for which it is determined that such sections should remain closed will be noted in the register. In no circumstances will licences be granted to fell timber in these reserves.

Precautionary measures. 7. It shall be the special duty of forest officers to adopt precautionary measures for the protection of the reserves, e.g. by burning the grass in their immediate vicinity (so as to guard against damage by fires), by rough fencing in such places as serve as a means of access to the sections, etc.

They will further prevent squatting or the establishment of mealie gardens, and take steps for the impounding of cattle found trespassing in these reserves.

Returns. 8. Forest officers should as soon as possible furnish the Finance and Revenue Commissioners with a statement exhibiting the number of sections into which the forests under their charge have been divided, and the extent to which they are being worked. They will specify those which might be allowed to remain open, and those which should be closed. In the latter case, the period for which the sections should, in their opinion, be reserved, ought to be mentioned.

A revised statement of this nature should be furnished quarterly.

Resident sawyers. 9. The interests of the resident sawyers should be kept in view, as for instance, by recognizing the preferential claims of these men to sections in the immediate vicinity of those in which they may at present be working, or to those which are situated in the neighbourhood of their dwellings.

Register. 10. Forest officers should keep a register of the sites granted to sawyers, traders, or others, under the provisions of Rules 14 and 15. *Vide* Government Notification No. 5 of the 17th January, 1881.

The date of such grants being made, and of the payment of the rent due and of the remittance of the amount to the landdrost of the district, must be duly recorded in such register.

Deposit of fees, etc. 11. The fees to be collected on timber cut or removed from the forests being leviable in stamps, it will be incumbent on forest officers to keep, for the convenience of the public, a stock of stamps for sale.

Conservators' commission. A premium of  $2\frac{1}{2}$  per cent. will be allowed forest officers on purchases of stamps made by them in terms of the provisions of Government Notice No. 197,\* dated the 17th September, 1880.

\* Repealed by Govt. Notice No. 244, 1896.

## PRETORIA CONVENTION, 1881.†

Her Majesty's Commissioners for the settlement of the Transvaal Territory, duly appointed as such by a Commission passed under the Royal Sign Manual and Signet, bearing date the 5th of April, 1881, do hereby undertake and guarantee on behalf of Her Majesty that from and after the 8th day of August, 1881, complete self-government, subject to the Suzerainty of Her Majesty, Her Heirs and Successors, will be accorded to the inhabitants of the Transvaal Territory, upon the following terms and conditions, and subject to the following reservations and limitations:—

*Article I.*—The said territory, to be hereinafter called the Transvaal State will embrace the land lying between the following boundaries, to wit:—

Beginning from the point where the north-eastern boundary line of Griqualand West meets the Vaal River, up the course of the Vaal River to the point of junction with it of the Klip River; thence up the course of the Klip River to the point of junction with it of the stream called Gansvlei; thence up the Gansvlei stream to its source in the Drakensberg; thence to a beacon in the boundary of Natal, situated immediately opposite and close to the source of the Gansvlei stream; thence in a north-easterly direction along the ridge of the Drakensberg, dividing the waters flowing in the Gansvlei stream from the waters flowing into the sources of the Buffalo, to a beacon on a point where this mountain ceases to be a continuous chain; thence to a beacon on a plain to the north-east of last described beacon; thence to the nearest source of a small stream called "Division Stream"; thence down this division stream, which forms the southern boundary of the farm Sandfontein, the property of Messrs. Meek, to its junction with the Coldstream; thence down the Coldstream to its junction with the Buffalo or Umzinyati River; thence down the course of the Buffalo River to the junction with it of the Blood River; thence up the course of the Blood River to the junction with it of Lyn Spruit or Dudusi; thence up the Dudusi to its source; thence 80 yards to beacon I, situated on a spur on the N'Qaba-Ka-hawana Mountains; thence 80 yards to the N'Sonto River: thence down the N'Sonto River to its junction with the White Umvulozi River; thence up the White Umvulozi River to a white rock where it rises; thence 800 yards to Kambula Hill (beacon II); thence to the source of Pemyana River, where the road from Kambula Camp to Burgers' Lager crosses; thence down the Pemyana River to its junction with the Bivana River; thence down the Bivana River to its junction with the Pongolo River; thence down the Pongolo River to where it passes through the Libombo Range; thence along

† See London Convention, 1884 (*infra*).

the summits of the Libombo Range to the northern point of the N'Yawos Hill in that range (beacon XVI); thence to the northern peak of the Inkwakweni Hills (beacon XV); thence to Sefunda, a rocky knoll detached from and to the north-east end of the White Koppies, and to the south of the Muzana River (beacon XIV); thence to a point on the slope near the crest of Matanjani, which is the name given to the south-eastern portion of the Mahamba Hills (beacon XIII); thence to the N'gwangwana, a double-pointed hill (one point is bare, the other wooded, the beacon being on the former), on the left bank of the Assegai River and upstream of the Dadusa Spruit (beacon XII); thence to the southern point of Bendita, a rocky knoll in a plain between the Little Hlozane and Assegai Rivers (beacon XI); thence to the highest point of Suluka Hill, round the eastern slopes of which flows the Little Hlozane, also called Ludaka or Mudspruit (beacon X); thence to the beacon known as "Viljoens," or N'Duko Hill; thence to a point north-east of Derby House, known as Magwazidil's beacon; thence to Igaba, a small knoll on the Umgwempisi River, also called "Joubert's Beacon," and known to the natives as "Piet's Beacon" (beacon IX); thence to the highest point of the N'Dhlovudwalili or Houtbosch, a hill on the northern bank of the Umgwempisi River (beacon VIII); thence to a beacon on the only flat-topped rock, about 10 feet high, and about 30 yards in circumference at its base, situated on the south side of the Lamsamana range of hills, and overlooking the valley of the Great Usuto River, this rock being 45 yards north of the road from Camden and Lake Banagher to the forest on the Usuto River (sometimes called Sandhlanas Beacon) (beacon VII); thence to the Gulungwana or Ibubulundi, four smooth bare hills, the highest in that neighbourhood, situated to the south of the Umtuli River (beacon VI); thence to a flat-topped rock, 8 feet high, on the crest of the Busuku, a low rocky range south-west of the Impulazi River (beacon V); thence to a low bare hill on the north-east of, and overlooking the Impulazi River, to the south of it being a tributary of the Impulazi, with a considerable waterfall, and the road from the river passing 200 yards to the north-west of the beacon (beacon IV); thence to the highest point of the Mapumula Range, the watershed of the Little Usutu River on the north, and the Umpulazi River on the south, the hill, the top of which is a bare rock, falling abruptly towards the Little Usuto (beacon III); thence to the western point of a double-pointed rocky hill, precipitous on all sides, called Makwana, its top being a bare rock (beacon II); thence to the top of a rugged hill of considerable height, falling abruptly to the Komati River, this hill being the northern extremity of the Isilotwani Range, and separated from the highest peak of the range, Inkomokasi (a sharp cone), by a deep neck (beacon I). (On a ridge in the straight line between beacons I and II is an intermediate beacon.) From beacon I the boundary runs to a hill across the Komati River, and thence along the crest of the range of hills known

as the Makongwa, which runs north-east and south-west to Kamhlabana Peak; thence in a straight line to Mananga, a point in the Libombo Range, and thence to the nearest point in the Portuguese frontier on the Libombo Range; thence along the summits of the Libombo Range to the middle of the poort where the Komati River passes through it, called the lowest Komati Poort; thence in a north by easterly direction to Pokioens Kop, situated on the north side of the Olifants River, where it passes through the ridges; thence about north-north-west to the nearest point of Serra di Chicundo; and thence to the junction of the Pafuri River with the Limpopo or Crocodile River; thence up the course of the Limpopo River to the point where the Marique River falls into it; thence up the course of the Marique River to "Derde Poort," where it passes through a low range of hills, called Sikwane, a beacon (No. 10) being erected on the spur of said range near to, and westward of, the banks of the river; thence, in a straight line, through this beacon to a beacon (No. 9), erected on the top of the same range, about 1,700 yards distant from beacon No. 10; thence, in a straight line, to a beacon (No. 8), erected on the highest point of an isolated hill, called Dikgagong, or "Wildebeest Kop," situated south-eastward of, and about  $3\frac{1}{2}$  miles distant from, a high hill, called Moripe; thence, in a straight line, to a beacon (No. 7), erected on the summit of an isolated hill or koppie forming the eastern extremity of the range of hills called Moshweu, situated to the northward of, and about two miles distant from, a large isolated hill, called Chucudu-Chochwa; thence in a straight line, to a beacon (No. 6), erected on the summit of a hill, forming part of the same range, Moshweu; thence in a straight line to a beacon (No. 5) erected on the summit of a pointed hill in the same range; thence in a straight line to a beacon (No. 4) erected on the summit of the western extremity of the same range; thence in a straight line to a beacon (No. 3) erected on the summit of the northern extremity of a low bushy hill, or koppie, near to and eastward of the Notwane River; thence in a straight line to the junction of the stream called Metsi-Mashwane with the Notwane River (No. 2); thence up the course of the Notwane River to Sengoma, being the poort where the river passes through the Dwargsberg Range; thence, as described in the award given by Lieutenant-Governor Keate, dated 17th October, 1871, by Pitlanganyane (narrow place), Deboaganka or Schaapkuil, Sibatoul (bare place), and Maclase, to Ramatlabama, a pool on a spruit north of the Molopo River. From Ramatlabama the boundary shall run to the summit of an isolated hill, called Leganka; thence in a straight line passing north-east of a native station near Buurmans Drift, on the Molopo River, to that point on the road from Mosiega to the old drift, where a road turns out through the native station to the new drift below; thence to Buurmans Old Drift; thence in a straight line to a marked and isolated clump of trees near to and north-west of the dwelling-house of

C. Austin, a tenant on the farm Vleifontein No. 117; thence in a straight line to the north-western corner beacon of the farm Mooimeisjesfontein No. 30; thence along the western line of the said farm Mooimeisjesfontein, and in prolongation thereof as far as the road leading from Ludik's Drift, on the Molopo River, past the homestead of Mooimeisjesfontein, towards the Salt Pans near Harts River; thence along the said road to a point thereon, eight miles north of the dwelling of Gouws, at the Salt Pan; thence in a straight line to a point one mile due west of the more northerly pan, measured from its western edge; thence in a straight line to the most westerly beacon of the farm Rietpan No. 150; thence along the line of the said farm to the drift on the Harts River, near the ruined house, known as "Liebenberg's"; thence down the Harts River to the drift about two and a half miles below Mamusa, and opposite the dwelling-house of Theodor Doms; thence in a straight line to the summit of an isolated hill known as "Koppie Enkel," situated between the Vaal and Harts Rivers, and about 36 miles from Mamusa, and about 18 miles north of the village of Christiana; thence in a straight line to that point on the north-east boundary of Griqualand West as beacons by Mr. Surveyor Ford, where two farms, registered as Nos. 72 and 75, do meet, about midway between the Vaal and Harts Rivers, measured along the said boundary of Griqualand West; thence to the first point where the north-east boundary of Griqualand West meets the Vaal River.

*Article 2.*—Her Majesty reserves to herself, her Heirs and Successors (a) the right from time to time to appoint a British Resident in and for the said State, with such duties and functions as are hereinafter defined; (b) the right to move troops through the said State in time of war or in case of the apprehension of immediate war between the Suzerain Power and any foreign State or native tribe in South Africa; and (c) the control of the external relations of the said State, including the conclusion of treaties and the conduct of diplomatic intercourse with foreign powers, such intercourse to be carried on through Her Majesty's diplomatic and consular officers abroad.

*Article 3.*—Until altered by the Volksraad or other competent authority, all laws whether passed before or after the annexation of the Transvaal Territory to Her Majesty's dominions, shall, except in so far as they are inconsistent with, or repugnant to, the provisions of this convention, be and remain in force in the said State, in so far as they shall be applicable thereto: Provided that no future enactment specially affecting the interests of natives shall have any force or effect in the said State without the consent of Her Majesty, her Heirs and Successors, first had and obtained and signified to the Government of the said State through the British Resident: Provided further, that in no case will the repeal or amendment of any laws which have been enacted since the annexation have a retrospective effect so as to invalidate any acts done or liabilities incurred by virtue of such laws.

*Article 4.*—On the 8th day of August, 1881, the Government of the said State, together with all rights and obligations thereto appertaining, and all State property taken over at the time of annexation, save and except munitions of war, will be handed over to

Messrs. STEPHANUS JOHANNES PAULUS KRUGER,  
MARTHINUS WESSEL PRETORIUS, and  
PETRUS JACOBUS JOUBERT,

or the survivor or survivors of them, who will forthwith cause a Volksraad to be elected and convened; and the Volksraad thus elected and convened will decide as to the further administration of the Government of the said State.

*Article 5.*—All sentences passed upon persons who may be convicted of offences contrary to the rules of civilised warfare, committed during the recent hostilities, will be duly carried out, and no alteration or mitigation of such sentences will be made or allowed by the Government of the Transvaal State without Her Majesty's consent, conveyed through the British Resident. In case there shall be any prisoners in any of the gaols of the Transvaal State whose respective sentences of imprisonment have been remitted in part by Her Majesty's Administrator or other officer administering the Government, such remission will be recognised and acted upon by the future Government of the said State.

*Article 6.*—Her Majesty's Government will make due compensation for all losses or damage sustained by reason of such acts as are in the eighth article hereinafter specified, which may have been committed by Her Majesty's Forces during the recent hostilities, except for such losses or damage as may already have been compensated for, and the Government of the Transvaal State will make due compensation for all losses or damage sustained by reason of such acts as are in the eighth article hereinafter specified, which may have been committed by the people who were in arms against Her Majesty during the recent hostilities, except for such losses or damage as may already have been compensated for.

*Article 7.*—The decision of all claims for compensation, as in the last preceding article mentioned, will be referred to a Sub-Commission consisting of the Honourable George Hudson, the Honourable Jacobus Petrus de Wet, and the Honourable John Gilbert Kotzé.

In case one or more of such Sub-Commissioners shall be unable or unwilling to act, the remaining Sub-Commissioner or Sub-Commissioners will, after consultation with the Government of the Transvaal State, submit for the approval of Her Majesty's High Commissioner the names of one or more persons to be appointed by him, to fill the place or places thus vacated.

The decision of the said Sub-Commissioners, or of a majority of them, will be final.

The said Sub-Commissioners will enter upon and perform their duties with all convenient speed. They will, before taking evidence, or ordering evidence to be taken, in respect

of any claim, decide whether such claim can be entertained at all under the rules laid down in the next succeeding article.

In regard to claims which can be so entertained the Sub-Commissioners will, in the first instance, afford every facility for an amicable arrangement as to the amount payable in respect of any claim, and only in cases in which there is no reasonable ground for believing that an immediate amicable arrangement can be arrived at, will they take evidence, or order evidence to be taken.

For the purpose of taking evidence and reporting thereon, the Sub-Commissioners may appoint deputies, who will without delay submit records of the evidence and their reports to the Sub-Commissioners.

The Sub-Commissioners will arrange their sittings, and the sittings of their deputies in such a manner as to afford the greatest convenience to the parties concerned and their witnesses. In no case will costs be allowed to either side other than the actual and reasonable expenses of witnesses whose evidence is certified by the Sub-Commissioners to have been necessary. Interest will not run on the amount of any claim except as hereinafter provided for.

The said Sub-Commissioners will, forthwith, after deciding upon any claim, announce their decision to the Government against which the award is made, and to the claimant.

The amount of remuneration payable to the Sub-Commissioners and their deputies will be determined by the High Commissioner after all the claims have been decided upon. The British Government and the Government of the Transvaal State will pay proportionate shares of the said remuneration and of the expenses of the Sub-Commissioners and their deputies, according to the amounts awarded against them respectively.

*Article 8.*—For the purpose of distinguishing claims to be accepted from those to be rejected the Sub-Commissioners will be guided by the following rules, viz.: Compensation will be allowed for losses or damage sustained by reason of the following acts committed during the recent hostilities, viz: (a) commandeering, seizure, confiscation, or destruction of property, or damage done to property; (b) violence done or threats used by persons in arms.

In regard to acts under (a), compensation will be allowed for direct losses only.

In regard to acts falling under (b), compensation will be allowed for actual losses of property, or actual injury to the same, proved to have been caused by its enforced abandonment.

No claims for indirect losses, except such as are in this article specially provided for, will be entertained.

No claims which have been handed in to the Secretary of the Royal Commission after the 1st day of July, 1881, will be entertained, unless the Sub-Commissioners shall be satisfied that the delay was reasonable.

When claims for loss of property are considered, the Sub-Commissioners will require distinct proof of the existence of the property, and that it neither has reverted, nor will revert, to the claimant.

*Article 9.*—The Government of the Transvaal State will pay and satisfy the amount of every claim awarded against it within one month after the Sub-Commissioners shall have notified their decision to the said Government, and in default of such payment the said Government will pay interest at the rate of six per cent. per annum from the date of such default; but Her Majesty's Government may, at any time before such payment, pay the amount, with interest if any, to the claimant in satisfaction of his claim, and may add the sum thus paid to any debt which may be due by the Transvaal State to Her Majesty's Government, as hereinafter provided for.

*Article 10.*—The Transvaal State will be liable for the balance of the debts for which the South African Republic was liable at the date of annexation, to wit, the sum of £48,000 in respect of the Cape Commercial Bank Loan, and £85,667 in respect of the Railway Loan, together with the amount due on the 8th August, 1881, on account of the Orphan Chamber debt which now stands at £27,226 15s., which debts will be a first charge upon the revenues of the State. The Transvaal State will moreover be liable for the lawful expenditure lawfully incurred for the necessary expenses of the Province since annexation, to wit, the sum of £265,000, which debt, together with such debts as may be incurred by virtue of the ninth article, will be a second charge upon the revenues of the State.

*Article 11.*—The debts due as aforesaid by the Transvaal State to Her Majesty's Government will bear interest at the rate of three and a half per cent., and any portion of such debt as may remain unpaid on the 8th August, 1882, shall be repayable by a payment for interest and sinking fund of six pounds and ninepence per £100 per annum, which will extinguish the debt in twenty-five years. The said payment of six pounds and ninepence per £100 shall be payable half-yearly, in British currency, on the 8th February and 8th August in each year: Provided always that the Transvaal State shall pay, in reduction of the said debt, the sum of £100,000 before the 8th August, 1882, and shall be at liberty at the close of any half-year to pay off the whole or any portion of the outstanding debt.

*Article 12.*—All persons holding property in the said State on the 8th day of August, 1881, will continue to enjoy the rights of property which they have enjoyed since the annexation. No person who has remained loyal to Her Majesty during the recent hostilities shall suffer any molestation by reason of his loyalty; or be liable to any criminal prosecution or civil action for any part taken in connection with such hostilities; and all such persons will have full liberty to reside in the country, with enjoyment of all civil rights, and protection for their persons and property.

*Article 13.*—Natives will be allowed to acquire land, but the grant or transfer of such land will in every case be made to and registered in the name of the Native Location Commission hereinafter mentioned, in trust for such natives.

*Article 14.*—Natives will be allowed to move as freely within the country as may be consistent with the requirements of public order, and to leave it for the purpose of seeking employment elsewhere, or for other lawful purposes, subject always to the Pass Laws of the said State, as amended by the Legislature of the Province, or as may hereafter be enacted, under the provisions of the third article of this Convention.

*Article 15.*—The provisions of the fourth article of the Sand River Convention are hereby reaffirmed, and no slavery or apprenticeship partaking of slavery will be tolerated by the Government of the said State.

*Article 16.*—There will continue to be complete freedom of religion and protection from molestation for all denominations, provided the same be not inconsistent with morality and good order; and no disability shall attach to any person in regard to rights of property by reasons of the religious opinions which he holds.

*Article 17.*—The British Resident will receive from the Government of the Transvaal State such assistance and support as can by law be given to him for the due discharge of his functions. He will also receive every assistance for the proper care and preservation of the graves of such of Her Majesty's Forces as have died in the Transvaal; and if need be, for the expropriation of land for the purpose.

*Article 18.*—The following will be the duties and functions of the British Resident:—

- (1) He will perform duties and functions analogous to those discharged by a *Chargé d'affaires* and Consul-General.
- (2) In regard to natives within the Transvaal State he will (*a*) report to the High Commissioner as representative of the Suzerain, as to the working and observance of the provisions of this Convention; (*b*) report to the Transvaal authorities any cases of ill-treatment of natives or attempts to incite natives to rebellion that may come to his knowledge; (*c*) use his influence with the natives in favour of law and order; and (*d*) generally perform such other duties as are by this Convention entrusted to him, and take such steps for the protection of the persons and property of natives as are consistent with the laws of the land.
- (3) In regard to natives not residing in the Transvaal (*a*) he will report to the High Commissioner and the Transvaal Government any encroachments reported to him as having been made by Transvaal residents upon the land of such natives, and in case of disagreement between the Transvaal

Government and the British Resident, as to whether an encroachment has been made, the decision of the Suzerain will be final; (b) the British Resident will be the medium of communication with native chiefs outside the Transvaal, and, subject to the approval of the High Commissioner, as representing the Suzerain, he will control the conclusion of treaties with them; and (c) he will arbitrate upon every dispute between Transvaal residents and natives outside the Transvaal (as to acts committed beyond the boundaries of the Transvaal) which may be referred to him by the parties interested.

- (4) In regard to communications with Foreign Powers, the Transvaal Government will correspond with Her Majesty's Government through the British Resident and the High Commissioner.

*Article 19.*—The Government of the Transvaal State will strictly adhere to the boundaries defined in the first article of this Convention, and will do its utmost to prevent any of its inhabitants from making any encroachment upon lands beyond the said State. The Royal Commission will forthwith appoint a person who will beacon off the boundary line between Ramatlabama and the point where such line first touches the Griqualand West boundary, midway between the Vaal and Hart Rivers. The person so appointed will be instructed to make an arrangement between the owners of the farms Grootfontein and Valleifontein on the one hand and the Baralong authorities on the other, by which a fair share of the water supply of the said farms shall be allowed to flow undisturbed to the said Baralongs.

*Article 20.*—All grants or titles issued at any time by the Transvaal Government in respect of land outside the boundary of the Transvaal State, as defined in article *one*, shall be considered invalid and of no effect, except in so far as any such grant or title relates to land that falls within the boundary of the Transvaal State; and all persons holding any such grant so considered invalid and of no effect will receive from the Government of the Transvaal State such compensation, either in land or in money, as the Volksraad shall determine. In all cases in which any native chiefs or other authorities outside the said boundaries have received any adequate consideration from the Government of the former South African Republic for land excluded from the Transvaal by the first article of this Convention, or where permanent improvements have been made on the land, the British Resident will, subject to the approval of the High Commissioner, use his influence to recover from the native authorities fair compensation for the loss of the land thus excluded, or of the permanent improvements thereon.

*Article 21.*—Forthwith, after the taking effect of this Convention, a Native Location Commission will be constituted, consisting of the President (or in his absence the

Vice-President) of the State, or some one deputed by him, the Resident, or some one deputed by him, and a third person to be agreed upon by the President (or the Vice-President, as the case may be) and the Resident; and such Commission will be a standing body for the performance of the duties hereinafter mentioned.

*Article 22.*—The Native Location Commission will reserve to the native tribes of the State such locations as they may be fairly and equitably entitled to, due regard being had to the actual occupation of such tribes. The Native Location Commission will clearly define the boundaries of such locations, and for that purpose will, in every instance, first of all ascertain the wishes of the parties interested in such land. In case land already granted in individual titles shall be required for the purpose of any location, the owners will receive such compensation, either in other land or in money, as the Volksraad shall determine. After the boundaries of any location have been fixed, no fresh grant of land within such location will be made, nor will the boundaries be altered without the consent of the Location Commission. No fresh grants of land will be made in the Districts of Waterberg, Zoutpansberg, and Lydenburg, until the locations in the said districts respectively shall have been defined by the said Commission.

*Article 23.*—If not released before the taking effect of this Convention, Sikukuni, and those of his followers who have been imprisoned with him, will be forthwith released, and the boundaries of his location will be defined by the Native Location Commission in the manner indicated in the last preceding article.

*Article 24.*—The independence of the Swazis, within the boundary line of Swaziland, as indicated in the first article of this Convention, will be fully recognised.

*Article 25.*—No other or higher duties will be imposed on the importation into the Transvaal State of any article, the produce or manufacture of the dominions and possessions of Her Majesty, from whatever place arriving, than are or may be payable on the like article, the produce or manufacture of any other country, nor will any prohibition be maintained or imposed on the importation of any article, the produce or manufacture of the dominions and possessions of Her Majesty, which shall not equally extend to the importation of the like articles, being the produce or manufacture of any other country.

*Article 26.*—All persons other than natives conforming themselves to the laws of the Transvaal State (*a*) will have full liberty, with their families, to enter, travel, or reside in any part of the Transvaal State; (*b*) they will be entitled to hire or possess houses, manufactories, warehouses, shops, and premises; (*c*) they may carry on their commerce either in person or by any agents whom they may think fit to employ; (*d*) they will not be subject, in respect to their persons

or property, or in respect of their commerce or industry, to any taxes, whether general or local, other than those which are or may be imposed upon Transvaal citizens.

*Article 27.*—All inhabitants of the Transvaal shall have free access to the Courts of Justice for the prosecution and defence of their rights.

*Article 28.*—All persons, other than natives, who established their domicile in the Transvaal between the 12th day of April, 1877, and the date when this Convention comes into effect, and who shall within 12 months after such last-mentioned date have their names registered by the British Resident, shall be exempt from all compulsory military service whatever. The Resident shall notify such registration to the Government of the Transvaal State.

*Article 29.*—Provision shall hereafter be made by a separate instrument for the mutual extradition of criminals, and also for the surrender of deserters from Her Majesty's Forces.

*Article 30.*—All debts contracted since the annexation will be payable in the same currency in which they may have been contracted.

All uncanceled postage and other revenue stamps issued by the Government since the annexation will remain valid, and will be accepted at their present value by the future Government of the State. All licences duly issued since the annexation will remain in force during the period for which they may have been issued.

*Article 31.*—No grants of land which may have been made, and no transfers or mortgages which may have been passed since the date of annexation, will be invalidated by reason merely of their having been made or passed after such date.

All transfers to the British Secretary for Native Affairs in trust for natives will remain in force, the Native Location Commission taking the place of such Secretary for Native Affairs.

*Article 32.*—This Convention will be ratified by a newly-elected Volksraad within the period of three months after its execution, and in default of such ratification this Convention shall be null and void.

*Article 33.*—Forthwith after the ratification of this Convention, as in the last preceding article mentioned, all British troops in Transvaal territory will leave the same, and the mutual delivery of munitions of war will be carried out.

Signed at Pretoria, this 3rd day of August, 1881.

HERCULES ROBINSON,	} Royal Commissioners.
President and High Commissioner.	
EVELYN WOOD, Major-General,	
Officer Administering the Government.	
J. H. DE VILLIERS.	

\* Ratified by V.R.R., 25th October, 1881, Art. 186.

We, the undersigned, Stephanus Johannes Paulus Kruger, Martinus Wessel Pretorius, and Petrus Jacobus Joubert, as representatives of the Transvaal burghers, do hereby agree to all the above conditions, reservations, and limitations, under which self-government has been restored to the inhabitants of the Transvaal territory, subject to the Suzerainty of Her Majesty, her Heirs and Successors, and we agree to accept the government of the said territory, with all rights and obligations thereto appertaining, on the 8th day of August, 1881, and we promise and undertake that this Convention shall be ratified by a newly-elected Volksraad of the Transvaal State within three months from this date.

Signed at Pretoria this 3rd day of August, 1881.

S. J. P. KRUGER.  
M. W. PRETORIUS.  
P. J. JOUBERT.

## LAW No. 1 1881 (S.A.R.)

## ON VAGABONDAGE AND VAGRANCY.

(Approved and enacted by Volksraad Resolutions dated 7th October, 1881. Articles 78 and 79.)

Whereas it is necessary to prevent vagabondage or vagrancy and public violation of morals, now therefore the Hon. Volksraad has deemed fit to provide and enact as it hereby does:—

1. Vagrancy is an offence.

Preamble.

Vagrancy an offence.

2. Vagrants or rascals are persons who have neither a fixed place of residence nor means of subsistence, and who are not in the habit of carrying on any trade or calling.

Definition of vagrancy.

3. Vagrants or rascals, who shall be legally declared to be such, shall be punished by imprisonment up to six months, and with hard labour according to circumstances.

Punishment.

4. The persons who shall be declared vagrants by sentence may in case they are aliens be placed across the border upon order of the Government.

Alien vagrants may be expelled from Republic.

5. All persons who shall commit a public violation of or offence against decency (eerbaarheid) shall be punished by imprisonment up to six months with hard labour, or a fine.

Penalty for public violation of decency.

6. The provisions of the criminal procedure concerning the prosecution of offences remain in full force as regards the prosecution of the offences referred to in this law.

Prosecution of offenders under criminal procedure.

7. This law is immediately put into operation in terms of article *twelve* of the Grondwet.\*

\* Published in *Staatskoerant* of 27th October, 1881.

## VOLKSRAAD RESOLUTION, 26th October, 1881.

Volksraad  
expenditure  
after Paarde-  
kraal session  
passed.

Article 198. On the order, "Session, Paardekraal, December, 1880. £24."

The Volksraad being of opinion that at the time of the session at Paardekraal the Government of the South African Republic was legally constituted, proceeds to pass (goedkeuren) the expenditure of that session in its entirety and according to law; and resolves therefore that besides and above the £24 recommended by the Budget Commission as part payment, such amount shall be added thereto as will bring the total to payment according to tariff and law.†

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† Published in *Staatskoerant* of 24th November, 1881.

PROCLAMATION†

Issued by Triumvirate, dated 6th December, 1881.

Whereas from time to time since the occupation of this country by the original white population thereof, large and small native tribes have entered within the boundaries thereof with the object of seeking refuge and protection under that white population;

Preamble.

Native tribes who have sought refuge in the Republic

And whereas in so doing, this country has been filled up to a considerable extent by natives, who for the greater portion still live, act, and conduct themselves in a very barbaric manner;

And whereas it has repeatedly appeared that ill-intentioned and unscrupulous persons, making use of such barbarism, or rather stupidity, alarm the natives in order to achieve base and villainous objects, and incite them in an unlawful, malicious, and criminal (strafbaar) manner against the Government and the laws of this Republic;

And whereas it appears to the Government from various reports that in consequence of such crafty and malicious incitement, a suspicion exists among the Kaffirs here and there that the Government had the object of compelling the natives by force to remain within the boundaries of this country, and thereby subjecting them by force to the laws of same;

having been informed by ill-intentioned persons that the Government intends to compel them to remain within Republic

Now therefore the Government of the Republic proclaims and makes known, as it hereby proclaims and makes known, that all native tribes who desire such may obtain free passes from the respective Commissioners of Native Affairs or Landdrosts of the districts where they reside to leave the Republic with all their lawful property.

all native tribes may obtain free passes to leave Republic with their property.

And be it further known that all Commissioners of Native Affairs and Landdrosts aforesaid are hereby instructed to make known each in his district the full contents of this Proclamation to whom it may concern.

Proclamation to be notified.

And be it further known that the native tribes which do not desire to make use of this offer, but on the other hand wish to remain as obedient subjects within the boundaries of this country, and consequently are and remain subject to its laws, shall enjoy the full protection of the law as it is assured and afforded to all.

Native tribes willing to remain to receive full protection.

And be it further known that a more detailed (nadere) beaconing off of the locations for all Kaffir tribes shall take place as soon as possible.

Native locations to be beaconed off.

† Published in *Staatskoerant* of 22nd December, 1881.

A.D. 1881.]

*Triumvirate Proclamation.*

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Free passes  
to be issued  
by native  
commissioners.

And be it further known that all Commissioners of Native Affairs are instructed and ordered to supply the said native tribes upon request with the said free passes for the purpose as above stated.

And be it further known that all officials and persons are ordered to comport themselves in accordance with this Proclamation, on non-compliance whereof they shall have to answer for the same.

## GOVERNMENT NOTICE No. 5.† Dated 22nd March, 1881.

(Issued by S. J. P. KRUGER, Vice-President.)

The following Executive Council Resolution‡ is published for general information:—

Whereas the need has arisen for regulating marriages, authority is hereby given to ministers and missionaries, who are legally competent to solemnize marriages, to do so, with temporary suspension of article *two*, paragraph 1, of the Marriage Ordinance, as far as concerns the functions of Landdrosts, and with application of article *four*, etc.; but all widowers and widows who shall remarry shall give security to the Government that they will comply with the provisions of the law as soon as the Government of the Republic is again in active function.

Temporary suspension of art. *two* (1) of marriage ordinance as to functions of Landdrosts.

## GOVERNMENT NOTICE No. 50. Dated 29th September, 1881.

Be it hereby known to one and all:

That whereas it has been brought to the notice of the Government of the South African Republic that native tribes which have fallen outside the Republic at present arrive in the boundaries of the said Republic with evident intention and manifest object to settle there without having requested and obtained previous permission thereto from said Government; now therefore the Government makes known:—

That it must be clearly understood and comprehended that no native tribes will be allowed to settle within the boundaries of the South African Republic without having previously obtained permission thereto from said Government.

Native tribes not allowed to settle in Republic without permission from Government.

† Published in *Staatskoerant* 30th March, 1881, and 6th April, 1881. Repealed by Government Notice No. 38 of 25th August, 1881, in *Staatskoerant*, 1st September, 1881.

‡ Confirmed by V.R.R. 15th May, 1883, Art. 74 (*infra*).

**1882.**

## LAW No. 2, 1882. §

## ON POUNDS IN SOUTH AFRICAN REPUBLIC.

(Confirmed by Resolution of the Hon. Volksraad, Article 148, dated 17th May, 1882.)

Whereas it is deemed necessary to amend the existing Pound Regulations, it is enacted:—

Repeal.

1. Upon this law coming into operation, the Pound Regulation approved by the Volksraad Resolution dated 18th June, 1869, article *two hundred and thirty-nine*, is repealed in so far as the same is in conflict with this amendment.

Establishment of pounds.

2. The State President shall, where and whenever it shall appear to him necessary, or application is made by the majority of the inhabitants of any ward or district, grant leave for the establishment of pounds, provided that a person may only obtain an appointment as poundmaster for a period of two consecutive years, and also that a pound shall not remain for more than two consecutive years on the same farm (plaats). Should, however, the majority of the inhabitants of a ward or district desire that the pound should remain on the same farm and in the hands of the same poundmaster after the expiration of the two years, then the Government shall act upon such request.

Term and place of appointment of poundmaster.

Pounds to be at least eighteen miles apart.

\* *It is further provided that the pounds may not be established at a less distance than eighteen miles from each other unless the Executive Council for special reasons deems it desirable to permit a pound at a less distance near public diggings or near towns.*

Establishment of pound to be notified in *Staatskoerant*.

Immediate notice shall be given in the *Staatskoerant* of the establishment of a pound, with the name of the poundmaster.

Transitory provision.

3. The poundmasters now in office may still remain in office for the term of one year after the coming into operation of this law.

Sale of impounded stock by resigning poundmaster.

4. The poundmaster may upon the day of his resignation retain the cattle impounded with him in order to be sold in terms of the rules enacted below.

Impounding of stock.

5. All stock causing nuisance (*hinder aan doen*) on private grounds may be brought to the pound, with exception of stock belonging to a traveller and grazing on grounds recognized by the general law as an outspan.

§ See Law No. 8, 1899 ; Law No. 2, 1882, (does not apply to pounds established in municipalities, see Ordinance No. 41, 1904, section *thirty* (1) ; Ordinance No. 31, 1902, section *six* (Pretoria) ; Ordinance II (Private) 1906, section *ninety-five* (1) (Johannesburg).

\* As amended by Volksraad Resolution, 19th May, 1890, Art. 145.

This exception ceases when stock causes nuisance, and damage to any garden, cultivated ground, fencing, enclosure, dam, watercourse, hay or corn stack.

Travellers shall, however, comply with the law enacting rules for travellers, dated 5th October, 1870; No. 13.†

6. It is not permitted to impound or cause to be impounded before 8 o'clock in the morning, stock found during the night, except stock owned in (tehuis behoorende) or trespassing in towns, villages, town, or village commonages. Hours of impounding.

7. The poundmaster may demand:—

Fines.

(1) Fines:—

Donkeys, mules, horses (per head) ...	9d.
Horned cattle ... ..	6d.
Sheep or goats ... ..	½d.

(2) Herding and tending:—

Tending.

Donkeys, mules, horses (per diem per head) ...	3d.
Horned cattle (per diem per head) ...	3d.
Sheep and goats (per diem per head) ...	½d.

But for stock impounded in the afternoon after 5 o'clock and released in the morning before 8 o'clock no money shall be paid for herding or tending.

(3) Mileage or drivers' fees:—

Mileage.

Per mile ... ..	6d.
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But this mileage shall only be brought into account for one person; no mileage shall be paid for any distance over twenty miles, and no payment for the return to his home of the person who has brought the stock. If demanded, the poundmaster shall immediately pay the mileage to the person who delivers the stock.

8. Stock which is impounded may be released by or on behalf of the owner upon payment of the sums named in the previous article, plus the costs of advertisement, if such stock shall already have been advertised for public sale. The poundmaster shall give a properly specified receipt and produce to the person who releases the stock the receipt for the mileage advanced by him. He shall, however, not bring into account more than forty-two days for tending. Release of stock and payment of pound charges.

9. The poundmasters, who shall contravene the provisions of these two preceding articles shall upon the first contravention be punished by a fine of £10 or one month's imprisonment, and on repetition they shall in addition lose their appointment as such. Penalty.

10. No person shall divide and send to the pound stock at separate times, with the object of thereby increasing the charges for driving. Dividing stock forbidden.

11. For stock belonging to more than one person and sent together to a pound, the mileage shall be charged only once. The poundmaster shall charge each owner in proportion to the number of animals belonging to each. Mileage.

† Now Law 1, 1893.

If owner  
unable to  
pay charges.

12. An owner who is not able to pay all expenses shall leave so much with the poundmaster to enable the latter to make good all the expenses therefrom inclusive of the costs of the sale.

Written  
statement as  
to stock  
impounded.

13. Upon each delivery (inzending) of stock to a pound, a written statement shall be made of the number of stock, the place where the stock was found, and the distance. In the absence of such statement the poundmaster shall not impound any cattle. The poundmaster shall keep the original statement and shall keep a proper book in which all this shall be entered by him.

Assessment  
of damage.

14. Should any damage have been occasioned by the impounded stock, the person injured shall have the right to have such damage assessed by the field cornet or two impartial witnesses. He shall give the poundmaster notice thereof and send him the assessment. Upon release such damage shall be paid with the expenses of assessment before the poundmaster gives back the cattle. In the event of sale the damage, with the expenses of assessment, shall be paid out of the proceeds after deducting the monies mentioned in Article 7.

Assessor's fee.

15. Ten shillings per day, or seven shillings and sixpence for half a day, may be charged for the assessment of the damage in addition to travelling expenses according to tariff.

Appeal from  
assessment.

16. From the assessment there is, after previous payment under protest, an appeal to the Landdrost of the district or the nearest Justice of the Peace. These appoint two persons chosen (naar de keuze) by the parties to make a fresh assessment. Such second assessment shall be made within seventy-two hours after completion of the first. The party found to be in the wrong pays the costs.

Provisions *re*  
payment of  
damage and  
mileage.

17. If the owner of stock which has caused damage offers payment of the damage according to assessment, such offer must be accepted and the person who has detained the stock shall not have the right to claim the mileage if the stock shall not already have been sent to the pound. Should the stock already be on the way, and should the owner offer payment of the mileage in proportion to the distance already covered, the same must be delivered to the owner. Any person who refuses to accept the mileage tendered and nevertheless sends the stock to the pound, shall be bound to indemnify the owner to the extent of at least four times the amount of mileage.

Receipt by  
poundmaster.

18. The poundmaster shall receive the cattle sent to the pound and give a receipt in respect thereof according to a fixed form.

Grazing of  
stock; use of  
ame  
forbidden.

19. He shall take proper care of the stock impounded. He shall send the same out for grazing daily from 8 o'clock in the morning to 5 o'clock in the afternoon. He may not use or cause the stock to be used.

Penalties.

Upon contravention hereof he may be fined from £5 to £10 for each offence besides compensation to the owner for damage occasioned by him or through the negligence

(achteloosheid) of his subordinates to the impounded stock. He is responsible for the stock which may be lost by reason of his carelessness (zorgeloosheid) or that of his subordinates.

20. The poundmaster provides for the erection and maintenance of a pound kraal, strong, large, and secure enough to contain and safely keep the stock. Pound kraal.

21. He shall provide (draagt zorg) that in his absence some one takes his place and for whose conduct he is responsible. Substitute during absence.

22. No poundmaster may impound stock which strays (komt aanloopen) on to the place where the pound is, nor may he allow the same to be there impounded, but shall send the same to the nearest pound. Impounding of stray cattle.

23. Every poundmaster shall furnish a security of £150. He is entitled to 33 $\frac{1}{3}$  per cent. of the total proceeds of the sale of cattle after deduction of all costs. Security and percentage.

24. The poundmaster shall keep proper books according to a generally prescribed form; he shall note therein a true and accurate description of all the cattle sent to his pound, the names of the senders, the date of sending, the names of the persons releasing stock, and the date of release, as also what has become of the stock which has not been released; and, further, all such special expenses as may be prescribed for him. He shall at all times be obliged, upon order of the Landdrost, or upon request of parties, to produce these books for inspection. Pound books.

25. It is forbidden to take stock away from the persons in charge thereof whilst the same is being lawfully taken to the pound, as also to remove stock from the pound or from the grazing grounds of the pound without the order or consent of the poundmaster. Every contravention shall be punished by a fine not exceeding £10, or imprisonment from one to three months. Releasing stock on way to pound forbidden. Penalty.

26. If the stock shall have been forty-two days in the pound and has not been claimed, the poundmaster shall publicly sell the same. He shall, before the sale, brand such stock with his brand, the letters whereof, different for each pound, shall be approved of by the State President. Fourteen days before the sale he shall advertise the same in the *Staatskoerant* with an accurate description of the stock. Sale of impounded cattle.

27. On the first day of the month following the sale, the amount of the sale shall, after deduction of all expenses, be handed over by the poundmaster to the Landdrost of his district. This account thereof (shall be rendered—Trs.) in the usual form of the declarations of auctioneers, together with the certificates properly signed by the purchasers. Deposit of proceeds with Landdrost.

28. The poundmaster need not as such take out an auctioneer's licence, and does not pay the usual auction dues. No licence or auction dues.

29. The sales shall be held regularly on every Wednesday or Saturday of each week at 1 o'clock in the afternoon. The sale shall be for cash, with five shillings for the auctioneer. Time and conditions of sale.

- How stock is sold. 30. The stock shall be sold per head, with exception of sheep and goats, which may be sold together in batches of ten.
- Poundmaster may not purchase. 31. It is forbidden to the poundmaster to buy in, either directly or indirectly, any of the stock sold by him.
- How proceeds are dealt with. 32. The money paid to the Landdrost by the poundmaster shall be deposited in the Public Treasury. It shall be paid out to the owner if he shall, within twelve months after the day of deposit, make application for the same.
- Illegal impounding. 33. Any person who illegally sends or brings stock to the pound shall make good to the owner all damage and costs arising from such act, and shall repay twice the amount of the fines claimed for the impounding of the cattle, and in default thereof he shall be punished with three months' imprisonment.
- Punishment. 34. The poundmaster shall be obliged to keep cattle suffering from any infectious disease in a separate kraal or place. He shall be obliged immediately to ask the Landdrost or Field Cornet for special orders. The Landdrost or the Field Cornet, after due inspection of the stock by three experts, may give such orders either for the immediate destruction, or immediate sale, or otherwise, as to them shall appear necessary for the public safety. The same shall apply to stock which suffers from defects which makes the poundmaster doubt the advisability (er bezwaar in doet zien) of keeping such stock.
- Diseased cattle. 35. No one who brings (leidt) stock to the pound may ride or use it, nor may he drive the same hard upon penalty of a fine hereinafter to be mentioned, over and above the obligation to make good the damage thereby occasioned to the owner.
- How to be dealt with. 36. Each person is obliged to bring the stock to the nearest pound.
- Riding, using or overdriving stock prohibited. 37. (See article *thirty-two*.) Any person who permits strange stock on his farm leaves the same there at the risk of the owner, but shall not be entitled to any indemnification from the owner.
- Stock to be taken to nearest pound. Any person who detains strange stock may not keep the same on his farm longer than twenty-four hours; after that period he is obliged to bring it to the nearest pound, provided that during those twenty-four hours he shall allow the same to graze freely for at least from 9 o'clock in the morning to 5 o'clock in the afternoon.
- Strange stock running or detained on farm. No person may use or cause strange stock to be used or in any way illtreat the same upon pain of a fine not exceeding £10 or imprisonment not exceeding three months over and above compensation for damage to the owner.
- Sale of strange stock forbidden. 38. No person has the right to sell, or cause to be sold, strange stock strayed (aangekomen) to his farm upon pain of a fine of £15 over and above full compensation for damage to the owner.

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|--|---------------------------------|
| 39. Pigs or poultry doing damage to gardens, cultivated lands, dams, waterfurrows, grain or hay may be killed by the owner of the damaged property on or in the aforesaid places.  | Pigs and poultry may be killed. |
| 40. Every contravention of any provision of this law, in so far as no special provision has been made therein, shall be punished by a fine up to £5, or by imprisonment from one to three months, according to the nature of the case. | Penalties.                      |
| 41. The Court of Landdrost has jurisdiction in the cases under this law.   | Jurisdiction.                   |
| 42. All provisions and laws in conflict with this law are hereby repealed.   | Repeal.                         |
| 43. This law shall come into operation three months after the date of publication.*  |                                 |

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\* Published in *Staatskoerant* 1st June, 1882.

## VOLKSRAAD RESOLUTION, 31st May, 1882.

Warmbaths.

Art. 255. The Volksraad resolves to instruct the Government to have the farm on Wit River, whereon the Warmbaths is situated, surveyed, and to proclaim it a public bath and to frame regulations for the proper control and administration of the same.

## VOLKSRAAD RESOLUTION, 7th July, 1882. §

Art. 743. † The Volksraad resolves unanimously to agree with the provisions now on the order, and to send a copy of the Executive Council Resolution in its entirety as now amended to the first subscribers of the petitions after publication thereof, which reads as follows:—

“(c) To interpret Volksraad Resolution, Article 118, dated 24th May, 1875, ‡ as follows:—

Tax on farms.

“On all farms surveyed by surveyors, and greater than one hour across, or 3,750 morgen, a tax of two shillings and sixpence shall be paid for every 100 morgen or portion thereof in excess of the 3,750 morgen.”

§ Published in *Staatskoerant* 31st August, 1882.

† This Volksraad Resolution confirms Executive Council Resolution dated 5th July, 1882, Art. 251. The latter is approved of by Volksraad Resolution 7th July, 1882, Art. 743, and definitely confirmed by Volksraad Resolution 8th July, 1882, Art. 755. Art. 743 is repealed by Tr. Pr. 34, 1901, except so much as relates to taxes on farms. Art. 755 is repealed by Tr. Pr. 34, 1901.

‡ Repealed by Tr. Pr. 34, 1901.

## GOVERNMENT NOTICE No. 333, dated 7th August, 1882.

The following Executive Council Resolution, article *two hundred and seventy-one*, dated 7th August, 1882, is hereby published for general information.

On the order: Minute R. 1875/82, containing instructions from the Hon. Volksraad to the Government by resolution, article *five hundred and seventy-seven*, dated 26th June, 1882, *re* Church Square, Pretoria.

The Executive Council resolves:

That from the 1st September next the daily market at Pretoria shall be held on the square till now called Outspan Square; that this resolution shall be published in the first *Staatskoerant* by means of Government Notice, and that notice of this resolution shall be given to the Market Master, Pretoria, with instructions to put up no things for auction from that date save on Outspan Square, which shall henceforth be called Market Square. The Government, however, allows all shopkeepers and others living around said square to retain the right to have their goods, etc., conveyed across said square to their shops or houses, or vice versa.

Pretoria market to be held on Market Square.

Rights of persons residing on the square.

## 1883.

## VOLKSRAAD RESOLUTION, 15th May, 1883.\*

Legislation of  
certain  
marriages.

Art. 74.† The Volksraad agrees with the draft resolution contained in article *fifty-nine* of the Executive Council Resolution, dated 5th May, 1883, and adopts the same as a resolution of the Raad, with the addition of the following words at the end of letter (b): “and between others on any date whatever during the War of Independence.”

Said Executive Council Resolution reads:

On the order: Consideration of the papers contained in R. 2313/82, R. 3462/82, R. 4254/81, respectively, relating to (a) the action (gedragslijn) taken by the Commissioner of Lichtenburg with regard to the solemnization of certain marriages, between persons who at the time of such solemnization did not reside in the town or commonage of Lichtenburg to the limits of which his jurisdiction is restricted in consequence of Law No. 5, 1875;

(b) the action (gedragslijn) taken by Commandant P. A. Cronje as to a marriage solemnized by him in the town of Potchefstroom on the 7th of the month of February, 1881, during the War of Independence;

(c) the solemnization of marriages during the same war by ministers, who, without parties having first appeared before the Landdrost as Commissioner, according to the provisions of Law No. 3, 1871, known as the Marriage Ordinance, have united said parties in matrimony, in pursuance and by virtue of Executive Council Resolution, article , dated 22nd March, 1881, reading as follows:—

“Whereas the need has arisen for regulating marriages, authority is hereby given to ministers and missionaries, who are legally competent to solemnize marriages, to do so with temporary suspension of article *two*, paragraph 1, of the Marriage Ordinance, as far as concerns the functions of Landdrosts, and with application of article *four*, etc.; but all widowers and widows who remarry shall give security to the Government that they will comply with the provisions of the law as soon as the Government of the Republic is again in active function.”

The Executive Council, having regard to the advice of the State Attorney with reference to these matters, and having taken into consideration with reference to the marriages mentioned under (a) that the Commissioner of Lichtenburg acted, as he asserts, under the impression that the Commissioner of Lichtenburg was authorised to solemnize marriages also between persons resident outside Lichtenburg during the

\* See V.R. Resolution 7th May, 1885, Art. 53 (*infra*).

† Published in *Staatskoerant* 24th May, 1883.

British interregnum, in support of which he sends in marriage certificate No. 31, solemnized by Mr. Scholz, at the time Commissioner of Lichtenburg; and having taken into consideration that these marriages, with exception of the above question of jurisdiction, appear to have been solemnized in accordance with the provisions of the law.

Having taken into consideration with reference to the marriage solemnized by Commandant Cronje [as mentioned under (b)] the exceptional circumstances in which both Commandant Cronje and the married parties were at the time;

Having taken into consideration with reference to the marriages solemnized, mentioned under (c) what the Executive Council at the time did under the resolution mentioned, the difficulties which existed for the parties, who did not wish to appear before a British Commissioner as Landdrost;

Resolves to recommend to the Hon. Volksraad to confirm and declare valid these marriages solemnized as above, as regards the abovementioned deficiencies (bezwaren), and therefore to resolve as follows:—

The Volksraad having considered the circumstances mentioned in Executive Council Resolution, article *fifty-nine*, dated 5th May, 1883, whereby the Volksraad is recommended to confirm certain marriages solemnized by

(a) the Commissioner of Lichtenburg, who has solemnized marriages between parties not resident in the town of Lichtenburg, or in the commonage of Lichtenburg at the time of the marriage;

(b) A marriage solemnized by Commandant P. A. Cronje in the town of Potchefstroom between Hendrik Petrus Erasmus and Margaritha Cornelia Susanna Kleijnsmit on the 7th of the month of February, 1881;

(c) Marriages solemnized by the ministers during the War of Independence by virtue of Executive Council Resolution, article , dated 22nd March, 1881, proceeds to confirm and declare valid, as it hereby does, the marriages mentioned, as regards the deficiencies and circumstances mentioned in Executive Council Resolution, article *fifty-nine*, dated 5th May, 1883.

**1884.**

## LONDON CONVENTION, 1884.\*

Whereas the Government of the Transvaal State, through its delegates, consisting of Stephanus Johannes Paulus Kruger (President of the said State), Stephanus Jacobus du Toit (Superintendent of Education), and Nicholas Jacobus Smit (a member of the Volksraad), have represented that the Convention signed at Pretoria on the 3rd day of August, 1881, and ratified by the Volksraad of the said State on the 25th October, 1881, contains certain provisions which are inconvenient, and imposes burdens and obligations from which the said State is desirous to be relieved, and that the south-western boundaries fixed by the said Convention should be amended, with a view to promote the peace and good order of the said State, and of the countries adjacent thereto; and whereas Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, has been pleased to take the said representations into consideration;

Now, therefore, Her Majesty has been pleased to direct, and it is hereby declared, that the following articles of a new Convention, signed on behalf of Her Majesty by Her Majesty's High Commissioner in South Africa, the Right Honourable Sir Hercules George Robert Robinson, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, Governor of the Colony of the Cape of Good Hope, and on behalf of the Transvaal State (which shall hereinafter be called the South African Republic) by the above-named delegates, Stephanus Johannes Paulus Kruger, Stephanus Jacobus du Toit, and Nicholas Jacobus Smit, shall, when ratified by the Volksraad of the South African Republic, be substituted for the articles embodied in the Convention of 3rd August, 1881; which latter, pending such ratification, shall continue in full force and effect.

## ARTICLES.

*Article 1.*—The territory of the South African Republic will embrace the land lying between the following boundaries, to wit:

Beginning from the point where the north-eastern boundary line of Griqualand West meets the Vaal River, up the course of the Vaal River to the point of junction with it of the Klip River; thence up the course of the Klip River to the point of junction with it of the stream called Gansvlei; thence up the Gansvlei stream to its source in the Drakensberg; thence to a beacon in the boundary of Natal, situated

\* As to boundaries of territory added to South African Republic by London Convention, see Proclamation 2nd March, 1885 (not published); see Convention of 1888 (Union with New Republic) (*infra*); Convention with Swaziland, 1893 (*infra*); Klein Vrijstaat (Piet Retief) added to South African Republic, see Proclamation, 2nd May, 1891 (not published).

immediately opposite and close to the source of the Gansvlei stream; thence in a north-easterly direction along the ridge of the Drakensberg, dividing the waters flowing into the Gansvlei stream from the waters flowing into the sources of the Buffalo, to a beacon on a point where this mountain ceases to be a continuous chain; thence to a beacon on a plain to the north-east of the last described beacon; thence to the nearest source of a small stream called "Division Stream"; thence down this division stream, which forms the southern boundary of the farm Sandfontein, the property of Messrs. Meek, to its junction with the Coldstream; thence down the Coldstream to its junction with the Buffalo or Umzinyati River; thence down the course of the Buffalo River to the junction with it of the Blood River; thence up the course of the Blood River to the junction with it of Lyn Spruit or Dudusi; thence up the Dudusi to its source; thence 80 yards to beacon I, situated on a spur of the N'Qaba-Ka-hawana Mountains; thence 80 yards to the N'Sonto River; thence down the N'Sonto River to its junction with the White Umvulozi River to a white rock where it rises; thence 800 yards to Kambula Hill; thence up the White Umvulozi River (beacon II); thence to the source of the Pemvana River where the road from Kambula Camp to Burgers' Lager crosses; thence down the Pemvana River to its junction with the Bivana River; thence down the Bivana River to its junction with the Pongolo River; thence down the Pongolo River to where it passes through the Libombo Range; thence along the summits of the Libombo Range to the northern point of the N'Yawos Hill in that range (beacon XVI); thence to the northern peak of the Inkwakweni Hills (beacon XV); thence to Sefunda, a rocky knoll detached from and to the north-east end of the White Koppies, and to the south of the Musana River (beacon XIV); thence to a point on the slope near the crest of Matanjani, which is the name given to the south-eastern portion of the Mahamba Hills (beacon XIII); thence to the N'gwanwana, a double-pointed hill (one point is bare, the other wooded, the beacon being on the former) on the left bank of the Assegai River and upstream of the Dadusa Spruit (beacon XII); thence to the southern point of Bendita, a rocky knoll in a plain between the Little Hlozane and Assegai Rivers (beacon XI); thence to the highest point of Suluka Hill, round the eastern slopes of which flows the Little Hlozane also called Ludaka or Mudspruit (beacon X); thence to the beacon known as "Viljoens," or N'Duko Hill; thence to a point north-east of Derby House, known as Magwazidils Beacon; thence to the Igaba, a small knoll on the Umgwempisi River, also called Joubert's Beacon, and known to the natives as Piet's Beacon (beacon IX); thence to the highest point of the N'Dhlovudwalili or Houtbosch, a hill on the northern bank of the Umgwempisi River (beacon VIII); thence to a beacon on the only flat-topped rock, about 10 feet high and about 30 yards in circumference at its base, situated on the south side of the Lamsamane range of hills and overlooking the valley of the Great Usuto River;

this rock being 45 yards north of the road from Camden and Lake Banagher to the forests on the Usuto River (sometimes called Sandhlanas Beacon) (beacon VII); thence to the Gulungwana or Ibubulundi, four smooth bare hills, the highest in that neighbourhood, situated to the south of the Umtuli River (beacon VI); thence to a flat-topped rock, 8 feet high, on the crest of the Busuku, a low rocky range south-west of the Impulazi River (beacon V); thence to a low bare hill on the north-east of, and overlooking the Impulazi River, to the south of it being a tributary of the Impulazi, with a considerable waterfall, and the road from the river passing 200 yards to the north-west of the beacon (beacon IV); thence to the highest point of the Mapumula Range, the watershed of the Little Usuto River on the north and the Impulazi River on the south, the hill, the top of which is a bare rock, falling abruptly towards the Little Usuto (beacon III); thence to the western point of a double-pointed rocky hill, precipitous on all sides, called Makwana, its top being a bare rock (beacon II); thence to the top of a rugged hill of considerable height falling abruptly to the Komati River, this hill being the northern extremity of the Isilotwani Range and separated from the highest peak of the range Inkomokazi (a sharp cone) by a deep neck (beacon I). (On a ridge in a straight line between beacons I and II is an intermediate beacon.) From beacon I the boundary runs to a hill across the Komati River, and thence along the crest of the range of hills known as the Makongwa, which runs north-east and south-west, to Kamhlabana Peak; thence in a straight line to Mananga, a point in the Libombo Range, and thence to the nearest point in the Portuguese frontier on the Libombo Range; thence along the summits of the Libombo Range to the middle of the poort where the Komati River passes through it, called the lowest Komati Poort; thence in a north by easterly direction to Pokioens Kop, situated on the north side of the Olifants River, where it passes through the ridges; thence about north-north-west to the nearest point of Serra di Chicundo; and thence to the junction of the Pafuri River with the Limpopo or Crocodile River; thence up the course of the Limpopo River to the point where the Marique River falls into it; thence up the course of the Marique River to "Derde Poort," where it passes through a low range of hills called Sikwane, a beacon (No. 10) being erected on the spur of said range near to, and westward of, the banks of the river; thence in a straight line through this beacon to a beacon (No. 9) erected on the top of the same range, about 1,700 yards distant from beacon No. 10; thence in a straight line to a beacon (No. 8) erected on the highest point of an isolated hill called Dikgagong or "Wilbebest Kop," situated south-eastward of and about  $3\frac{1}{2}$  miles distant from a high hill called Moripe; thence in a straight line to a beacon (No. 7) erected on the summit of an isolated hill or kopje forming the eastern extremity of the range of hills called Moshweu, situated to the northward of, and about two miles distant from, a large isolated hill

called Chukudu-Chochwa; thence in a straight line to a beacon (No. 6) erected on the summit of a hill forming part of the same range, Moshweu; thence in a straight line to a beacon (No. 5) erected on the summit of a pointed hill in the same range; thence in a straight line to a beacon (No. 4) erected on the summit of the western extremity of the same range; thence in a straight line to a beacon (No. 3) erected on the summit of the northern extremity of a low, bushy hill or koppie near to and eastward of the Notwane River, thence in a straight line to the junction of the stream called Metsi-Mashwane with the Notwane River (No. 2); thence up the course of the Notwane River to Sengoma, being the poort where the river passes through the Dwarsberg Range; thence, as described in the award given by Lieutenant-Governor Keate, dated 17th October, 1871, by Pitlanganyane (narrow place), Deboaganka or Schaapskuil, Sibatoul (bare place), and Maclase, to Ramatlabama, a pool on a spruit north of the Molopo River; from Ramatlabama the boundary shall run to the summit of an isolated hill called Leganka; thence in a straight line passing north-east of a native station, near Buurmans Drift, on the Molopo River, to that point on the road from Mosiega to the old drift where a road turns out through the native station to the new drift below; thence to Buurmans Old Drift; thence in a straight line to a marked and isolated clump of trees near to and north-west of the dwelling-house of C. Austin, a tenant on the farm Vleifontein No. 117; thence in a straight line to the north-western corner beacon of the farm Mooimeisjesfontein No. 30; thence along the western line of the said farm Mooimeisjesfontein and in prolongation thereof, as far as the road leading from Ludiks Drift on the Molopo River past the homes of Mooimeisjesfontein towards the Salt Pans near Harts River; thence along the said road crossing the direct road from Polfontein to Sehuba, and until the direct road from Polfontein to Lotlakane or Pietfontein is reached; thence along the southern edge of the last-named road towards Lotlakane until the first garden ground of that station is reached; thence in a south-westerly direction skirting Lotlakane, so as to leave it and all its garden ground in native territory until the road from Lotlakane to Kunana is reached; thence along the east side and clear of that road towards Kunana until the garden grounds of that station are reached; thence, skirting Kunana, so as to include it and all its garden grounds, but no more, in the Transvaal, until the road from Kunana to Mamusa is reached; thence along the eastern side and clear of the road towards Mamusa until a road turns out towards Taungs; thence along the eastern side and clear of the road towards Taungs; till the line of the district known as Stellaland is reached about 11 miles from Taungs; thence along the line of the District Stellaland to the Harts River about 24 miles below Mamusa; thence across Harts River to the junction of the roads from Mothe and Phokwane; thence along the western side and clear of the nearest roads towards Koppie Enkel,

an isolated hill about 36 miles from Mamusa, and about 18 miles north of Christiana, and to the summit of the said hill; thence in a straight line to that point on the north-east boundary of Griqualand West as beacons by Mr. Surveyor Ford, where two farms, registered as Nos. 72 and 75, do meet, about mid-way between the Vaal and Harts Rivers, measured along the said boundary of Griqualand West; thence to the first point where the north-east boundary of Griqualand West meets the Vaal River.

*Article 2.*—The Government of the South African Republic will strictly adhere to the boundaries defined in the first article of the Convention, and will do its utmost to prevent any of its inhabitants from making any encroachments upon lands beyond the said boundaries. The Government of the South African Republic will appoint Commissioners upon the eastern and western borders whose duty it will be strictly to guard against irregularities and all trespassing over the boundaries. Her Majesty's Government will, if necessary, appoint Commissioners in the native territories outside the eastern and western borders of the South African Republic to maintain order and prevent encroachments.

Her Majesty's Government and the Government of the South African Republic will each appoint a person to proceed together to beacon off the amended south-west boundary as described in article *one* of this Convention; and the President of the Orange Free State shall be requested to appoint a referee to whom the said persons shall refer any questions on which they may disagree respecting the interpretation of the said article, and the decision of such referee thereon shall be final. The arrangement already made under the terms of article *nineteen* of the Convention of Pretoria of the 3rd August, 1881, between the owners of the farms Grootfontein and Valleifontein on the one hand, and the Barolong authorities on the other, by which a fair share of the water supply of the said farms shall be allowed to flow undisturbed to the said Barolongs, shall continue in force.

*Article 3.*—If a British officer is appointed to reside at Pretoria or elsewhere within the South African Republic to discharge functions analogous to those of a Consular Officer he will receive the protection and assistance of the Republic.

*Article 4.*—The South African Republic will conclude no treaty or engagement with any State or nation other than the Orange Free State, nor with any native tribe to the eastward or westward of the Republic until the same has been approved by Her Majesty the Queen.

Such approval shall be considered to have been granted if Her Majesty's Government shall not, within six months after receiving a copy of such treaty (which shall be delivered to them immediately upon its completion), have notified that the conclusion of such treaty is in conflict with the interest of Great Britain or of any of Her Majesty's possessions in South Africa.

*Article 5.*—The South African Republic will be liable for any balance which may still remain due of the debts for which it was liable at the date of annexation, to wit, the Cape Commercial Bank Loan, the Railway Loan, and the Orphan Chamber Debt, which debts will be a first charge upon the revenues of the Republic. The South African Republic will moreover be liable to Her Majesty's Government for £250,000, which will be a second charge upon the revenues of the Republic.

*Article 6.*—The debt due as aforesaid by the South African Republic to Her Majesty's Government will bear interest at the rate of three and a half per cent. from the date of the ratification of this Convention, and shall be repayable by a payment for interest and sinking fund of six pounds and ninepence per £100 per annum, which will extinguish the debt in twenty-five years. The said payment of six pounds and ninepence per £100 shall be payable half-yearly, in British currency, at the close of each half-year from the date of such ratification; provided always that the South African Republic shall be at liberty at the close of any half-year to pay off the whole or any portion of the outstanding debt.

Interest at the rate of three and a half per cent. on the debt as standing under the Convention of Pretoria shall as heretofore be paid to the date of the ratification of this Convention.

*Article 7.*—All persons who held property in the Transvaal on the 8th day of August, 1881, and still hold the same, will continue to enjoy the rights of property which they have enjoyed since the 12th April, 1877. No person who has remained loyal to Her Majesty during the late hostilities shall suffer any molestation by reason of his loyalty; or be liable to any criminal prosecution or civil action for any part taken in connection with such hostilities; and all such persons will have full liberty to reside in the country, with enjoyment of all civil rights and protection for their persons and property.

*Article 8.*—The South African Republic renews the declaration made in the Sand River Convention, and in the Convention of Pretoria, that no slavery or apprenticeship partaking of slavery will be tolerated by the Government of the said Republic.

*Article 9.*—There will continue to be complete freedom of religion and protection from molestation for all denominations, provided the same be not inconsistent with morality and good order; and no disability shall attach to any person in regard to rights of property by reason of the religious opinions which he holds.

*Article 10.*—The British officer appointed to reside in the South African Republic will receive every assistance from the Government of the said Republic in making due provision for the proper care and preservation of the graves of such of Her Majesty's Forces as have died in the Transvaal, and if need be, for the appropriation of land for the purpose

*Article 11.*—All grants or titles issued at any time by the Transvaal Government in respect of land outside the boundary of the South African Republic, as defined in article *one*, shall be considered invalid and of no effect, except in so far as any such grant or title relates to land that falls within the boundary of the South African Republic; and all persons holding any such grant so considered invalid and of no effect will receive from the Government of the South African Republic such compensation, either in land or in money, as the Volksraad shall determine. In all cases in which any native chiefs or other authorities outside the said boundaries have received any adequate consideration from the Government of the South African Republic for land excluded from the Transvaal by the first article of this Convention, or where permanent improvements have been made on the land, the High Commissioner will recover from the native authorities fair compensation for the loss of the land thus excluded, or of the permanent improvements thereon.

*Article 12.*—The independence of the Swazies, within the boundary line of Swaziland, as indicated in the first article of this Convention, will be fully recognised.

*Article 13.*—Except in pursuance of any treaty or engagement made as provided in article *four* of this Convention, no other or higher duties shall be imposed on the importation into the South African Republic of any article coming from any part of Her Majesty's dominions than are or may be imposed on the like article coming from any other place or country; nor will any prohibition be maintained or imposed on the importation into the South African Republic of any article coming from any part of Her Majesty's dominions which shall not equally extend to the like article coming from any other place or country. And in like manner the same treatment shall be given to any article coming to Great Britain from the South African Republic as to the like article coming from any other place or country.

These provisions do not preclude the consideration of special arrangements as to import duties and commercial relations between the South African Republic and any of Her Majesty's colonies or possessions.

*Article 14.*—All persons, other than natives, conforming themselves to the laws of the South African Republic (*a*) will have full liberty, with their families, to enter, travel, or reside in any part of the South African Republic; (*b*) they will be entitled to hire or possess houses, manufactories, warehouses, shops, and premises; (*c*) they may carry on their commerce either in person or by any agents whom they may think fit to employ; (*d*) they will not be subject, in respect of their persons or property, or in respect of their commerce or industry, to any taxes, whether general or local, other than those which are or may be imposed upon citizens of the said Republic.

*Article 15.*—All persons, other than natives, who established their domicile in the Transvaal between the 12th day of April, 1877, and the 8th August, 1881, and who within twelve months after such last-mentioned date have had their names registered by the British Resident, shall be exempt from all compulsory military service whatever.

*Article 16.*—Provision shall hereafter be made by a separate instrument for the mutual extradition of criminals, and also for the surrender of deserters from Her Majesty's Forces.

*Article 17.*—All debts contracted between the 12th April, 1877, and the 8th August, 1881, will be payable in the same currency in which they may have been contracted.

*Article 18.*—No grants of land which may have been made, and no transfers or mortgages which may have been passed, between the 12th April, 1877, and the 8th August, 1881, will be invalidated by reason merely of their having been made or passed between such dates.

All transfers to the British Secretary for Native Affairs in trust for natives will remain in force, an officer of the South African Republic taking the place of such Secretary for Native Affairs.

*Article 19.*—The Government of the South African Republic will engage faithfully to fulfil the assurances given, in accordance with the laws of the South African Republic, to the natives of the Pretoria Pitso by the Royal Commission in the presence of the Triumvirate and with their entire assent (1) as to the freedom of the natives to buy or otherwise acquire land under certain conditions; (2) as to the appointment of a commission to mark out native locations; (3) as to the access of the natives to the courts of law; and (4) as to their being allowed to move freely within the country or to leave it for any legal purpose under a pass system.

*Article 20.\**—This Convention will be ratified by a Volksraad of the South African Republic within the period of six months after its execution, and in default of such ratification this Convention shall be null and void.

Signed in duplicate in London this 27th day of February, 1884.

(Signed) HERCULES ROBINSON.  
S. J. P. KRUGER.  
S. J. DU TOIT.  
N. J. SMIT.

\* Ratified by V.R.R. 8th, August, 1884, article *fifty-five*; published in *Staatskoerant*, 6th November, 1884.

## LAW No. 3, 1884.†

ON THE BETTER ADMINISTRATION OF THE TELEGRAPH SERVICE  
IN THE SOUTH AFRICAN REPUBLIC.

(Approved and enacted by Resolution of the Hon. Volksraad,  
Article 1214, dated 5th November, 1884.)

## CHAPTER I.

## REGULATIONS FOR THE TELEGRAPH SERVICE.

1. The Government of the South African Republic has, subject to the instructions of the Volksraad, the exclusive right to erect telegraph lines within the boundaries of the Republic, and such is prohibited to every other person unless thereto authorised by the Government. The different officials required for the proper control and working of the telegraph are appointed by the Government.

## ESTABLISHMENT OF LINES AND OFFICES.

2. The Government determines in which places State telegraph offices shall be established.

## MAINTENANCE OF SECRECY OF TELEGRAMS.

3. Officials belonging to the telegraph service or employed in the telegraph offices are forbidden to impart any information concerning telegrams otherwise than to competent (bevoegde) persons, and this prohibition shall be mentioned in their oath of office, without prejudice (onverminderd) to the penalties according to law. They shall also neither directly or indirectly, otherwise than officially, furnish news to newspapers or have any relations with the editors (redactie) of such newspapers.

## ACCESS TO THE OPERATING ROOMS.

4. Access to the operating rooms is permitted only to persons belonging to the telegraph service, and to persons provided with a special permit from the State Secretary, or whose admission is permitted by a general authorisation granted by the Government.

## OFFICE HOURS IN TELEGRAPH OFFICES.

5. To be fixed by the Government from time to time according to the circumstances.

## HANDING IN OF TELEGRAMS.

6. In places where a telegraph office is established the telegrams are accepted *only* at that office. From other places telegrams may be sent by means of a registered letter

† Supplemented by Law No. 22, 1896 (*infra*); see Law No. 9, 1880 (*supra*).

transmitted by post to the director of the nearest telegraph office enclosing the amount payable for the transmission of such telegram.

#### CLASSIFICATION OF TELEGRAMS.

7. Telegrams are divided into (a) Government, (b) service, and (c) special telegrams.

(a) Government telegrams are those sent by the Government and Heads of Departments; these shall be signed by the Head of the Department.

(b) Service telegrams are those which relate only to the telegraph service.

(c) Special telegrams may be sent by any private person upon payment of the fixed tariff.

The sender of a special telegram may be required to establish the validity of the signature to a telegram; if he fails to do so the transmission of the telegram shall be refused.

#### PRIVILEGE OF GOVERNMENT TELEGRAMS.

8. Government telegrams shall be transmitted by the telegraph officials without enquiry as to the contents.

#### LANGUAGES IN WHICH TELEGRAMS MAY BE DRAWN.

9. The telegrams may be drawn in any language the letters whereof are capable of being transmitted by the prescribed notation (*seinteevens*) (Morse's code).

The use of Dutch, French, German, or English is, however, recommended in preference.

#### CODE TELEGRAMS.

10. Telegrams of which the contents have no coherent meaning shall be deemed to be written in *code* (*geheim schrift*). For such wires the *double* tariff of ordinary telegrams shall be paid. Telegraphists shall be entitled to demand the key to the code in private telegrams.

#### WRITING (LETTERSORT) AND INITIALING.

11. Every telegram to be transmitted shall be clearly written in letters and characters which are capable of being transmitted by telegraph. Erasures, references, deletions, additions, or corrections shall be allowed only if properly initialed.

#### FURTHER TRANSMISSION BY POST.

12. A telegram received at the terminus telegraph office for some or other place away from the line shall be transmitted by first post as a *service letter* to the addressee.

#### REFUSAL TO TRANSMIT TELEGRAMS.

13. The transmission of special telegrams shall be refused if the contents thereof shall be deemed to be in conflict with the laws of the land, public order, or the safety of the State, and are in conflict with public morality. In the service within this State notice of each refusal shall be forthwith

given by telegraph to the Head of the Department, transmitting him the full text of the telegram tendered, and such Head of Department shall then decide between the telegraph officials and the parties interested. From the decision of the Head of the Department an appeal shall lie to the Government. The contents of the telegram, whether refused or transmitted upon decision of the higher official, may be communicated only to the official whose authority is called in. The cost of a telegram which is stopped shall be refunded to the sender.

#### TRANSMISSION OF TELEGRAMS.

14. The due arrival\* of telegrams in general or within a fixed time is not guaranteed.

#### FREE OF CHARGE (VRYDOM).

15. Only Government and service telegrams shall be transmitted free of charge, and all other messages shall be paid for according to tariff whether they be sent during or out of office hours.

#### TARIFF.

16. The Government shall from time to time fix the amount to be charged for the transmission of inland telegrams; for foreign telegrams the charge shall be regulated by convention or agreement concluded with the respective States or countries.

#### TARIFFS FOR INSPECTION.

17. At every office tariffs shall be provided for public inspection.

#### PREPAYMENT OF REPLY.

18. Every sender of a telegram may prepay the answer which he asks from his correspondent, specifying the number of words for which he prepays.

#### NOTIFICATION OF RECEIPT.

19. The sender of a telegram may demand that the time of delivery to his correspondent shall be communicated to him by wire. For such communication he shall pay the price of a telegram of ten words.

#### PREPAYMENT.

20. The payment of all special telegrams shall be made at the office of transmission in postage stamps, which stamps shall be cancelled by the official before transmission. Unless this is done no telegram shall be transmitted.

#### TRANSMISSION OF TELEGRAMS IN EVENT OF INTERRUPTION.

21. Where an office, in consequence of interruption of communications, shall not be attainable, the telegram shall be sent to the furthest obtainable office, and be sent on by

\* The word "overeenkomst" in Loc. Wetten should read "overkomst." See law as published in the *Staatskoerant* and *Volksraad Minutes*.

the first post; should such interruption be known to the official present in such office at the time of transmission, he shall be obliged to notify the sender thereof.

#### RECEIPT FOR CHARGES PAID.

22. Receipts for charges paid shall be furnished upon payment of sixpence for each receipt, which amount shall be paid by the sender in postage stamps, which shall thereupon be cancelled by the telegraph official.

#### SUPPLEMENTARY PAYMENT FOR UNDER-CHARGES.

23. Should it subsequently appear that the sender of a telegram has been charged too little for the cost of transmission, he shall be obliged to pay in what has been demanded too little, and is therefore surcharged. Charges for transmission (telegraphing and delivery expenses) collected in excess shall be separately refunded.

#### REQUEST FOR ELUCIDATION.

24. The sender may within three times 24 hours after transmission, and the addressee within the same time after the receipt of a telegram, demand the correction of expressions which are unintelligible to him. The question and the answer relating to the correction of unintelligible expressions shall in transmission be considered and dealt with as service telegrams; should it thereupon appear that the fault lies with the sender, payment shall be made for the transmission again just as if for a special telegram.

#### COPIES OF TELEGRAMS ALREADY SENT OR RECEIVED.

25. At the request of the sender or addressee, certified copies of telegrams handed in or received by them shall be furnished to them, provided that the exact time of handing in or receipt be stated in the request, and provided (voor zoo ver) the telegrams are still in existence. The price of a copy is one shilling sterling for every hundred words or portion thereof. The copies so given shall be provided by the applicant with postage stamps for the full amount due in respect thereof, and these stamps shall be cancelled by the official who furnishes the copy.

#### CUSTODY OF TELEGRAMS.

26. *Superseded by Law No. 22, 1896, article one.*

#### CHAPTER II.

27. A chief to the Telegraph Department shall be appointed by the Government whose title shall be "Chief Director of the Telegraph Service."

This official is charged with everything relating to the said department, and all telegraph officials shall be accountable and obedient to him. He has at all times access to the various offices, inspection of the books, papers, minutes, tapes, etc., and shall yearly, or as often as the Government may

desire, submit a proper report of this department to the Government. The Landdrosts may be appointed *ex officio* as representatives of the Chief Director in order to supervise under him the proper discharge of duty by subordinate telegraph officials.

#### THE RESPONSIBLE OFFICIALS.

28. A director shall be appointed by the Government to every telegraph office. He is charged with telegraphing, keeping the records relating to the responsible administration, with accounting for the receipts, and, further, with everything relating to the proper conduct of the work. The remaining officials of the office shall be under his immediate orders.

#### AS TO THE RECORDS RELATING TO THE TRANSMISSION, PASSING ON AND RECEIPT OF MESSAGES.

29. Various records shall be kept at the telegraph offices, such as

- (a) sheets of transmitted messages and prepaid answers;
- (b) sheets of messages received and those which have been passed on, as also of prepaid answers;
- (c) day-book;
- (d) cash-book, and, further, such statements as the Head of the Department, with the approval of the Government, may from time to time order to be made out, and which shall be sent in to the Head of the Department either weekly or monthly as the requirements of a good administration may necessitate.

30. This law shall come into operation immediately after publication in the *Staatskoerant*, in terms of the provisions of the last portion of article *seventy-seven* of the "Standing Orders."\*

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\* Published in *Staatskoerant* of 13th November, 1884.

## 1885.

## LAW No. 3, 1885. §

## RELATING TO COOLIES, ARABS, AND OTHER ASIATICS.

(Approved and enacted by Resolution of the Hon. Volksraad, Article 255, dated 1st June, 1885.)

1. This law shall apply to the persons belonging to one of the native races of Asia, including the so-called Coolies, Arabs, Malays, and Mahomedan subjects of the Turkish Empire. To whom law applies.

2. With regard to the persons mentioned in article one, the following provisions shall apply:—

(a) They cannot obtain the burgher right of the South African Republic. Cannot obtain burgher rights, or own fixed property.

(b) \*They cannot be owners of fixed property in the Republic *†except only in such streets, wards, and locations as the Government for purposes of sanitation shall assign to them to live in.*

This provision has no retrospective force.

(c) *This sub-section, as amended by Volksraad Resolution of 12th August, 1886, article one thousand four hundred and nineteen; and by Volksraad Resolution of 16th May, 1890, article one hundred and twenty-eight, has been repealed by Act No. 2, 1907, section one.*

(d) ‡The Government shall have the right, for purposes of sanitation, to assign to them certain streets, wards, and locations to live in (ter bewoning). This provision does not apply to those who live with their employers. Locations, etc.

3. This law shall come into operation immediately after publication in the *Staatskoerant* in accordance with article twelve of the Grondwet.||

§ See V.R.R. 5th July, 1888, Art. 899 (*infra*); V.R.R. 27th June, 1889, Art. 561 (*infra*); Government Notice No. 15, 1889 (Trading licenses—not published); V.R.R. 17th May, 1890, Art. 134 (Law 3, 1885, to be strictly enforced—not published); Government Notice No. 241, 1890 (Registration on Goldfields—not published); F.V.R.R. November, 1896, Artt. 1884–1897 (*infra*); Government Notices No. 522, 1898 (Registration—not published); Government Notice No. 621, 1898 (*infra*); Law No. 3, 1885, does not apply to labourers introduced under Ordinance No. 17, 1904, see sec. 32 of same; see Act No. 2, 1907, Act No. 36, 1908. As to establishment of bazaars, see Government Notices Nos. 1013, 1183, 1379, 1382 of 1903; 3, 232, 456, 1076 of 1904; 487 of 1905; 1263 of 1906; 562 of 1907; 692 of 1908; 204 of 1909.

\* See Act No. 36, 1908, sec. 19; Act No. 2, 1907, sec. 21.

† Words in italics have been inserted by Volksraad Resolution, 12th August, 1886, Art. 1419.

‡ As amended by Volksraad Resolution, 12th August, 1886, Art. 1419.

|| Published in *Staatskoerant* of 10th June, 1885.

## LAW No. 4, 1885.||

TO PROVIDE FOR THE BETTER GOVERNMENT OF AND THE BETTER ADMINISTRATION OF JUSTICE AMONG THE NATIVE POPULATION OF THIS REPUBLIC.

(Approved and enacted by Resolution of the Hon. Volksraad, Article 479, dated 19th June, 1885.)

Preamble.

Whereas the ignorance, the usages, and the customs of the native population of this Republic render them unfit for the duties and the responsibility of civilised life; and, further, whereas it is necessary and desirable to provide for their better control (behandeling) and government by placing them under special supervision, and for the proper administration of justice among them, until they shall be able to properly understand and appreciate such duties and responsibility as they may reasonably be deemed capable of performing in obedience to the general laws existing in the Republic;

Be it therefore enacted by the Hon. Volksraad of the South African Republic:—

Repeal.

1. Articles *thirty-seven* to *fifty-one* inclusive, and articles *fifty-six*, *fifty-seven*, and *fifty-eight* of the Field Cornets' Instructions, approved and enacted by Volksraad Resolution of 17th September, 1858, article *nineteen*; Law No. 9 of 1870, entitled: For the prevention of vagrancy, theft, and other irregularities among Kaffirs, for the protection of persons, property, and possessions, for the better regulation and government of Kaffir tribes, and for the levying of a tax on Kaffirs and other coloured persons, approved and enacted by Volksraad Resolution of 3rd June, 1870, article *one hundred and fifty-four*; Law No. 4 of 1873, entitled: For the taking out of passes by natives in the South African Republic, approved and enacted by Volksraad Resolutions of 5th and 6th August, 1872, articles *one hundred and eighty-four* and *one hundred and eighty-nine*, and amended by Volksraad Resolution of 10th March, 1873, article *thirty-three*; and Law No. 3 of 1876, entitled: Law relating to natives, approved and enacted by Volksraad Resolution of 9th June, 1876, article *one hundred and forty-three*; shall be and are hereby repealed, save and except only in so far as concerns all contraventions of the said articles of the Field Cornets' Instructions and the abovementioned laws, and the penalties and fines imposed under such provisions; and the abovementioned laws, and all proceedings taken or commenced before the coming into operation of this law shall be proceeded with, and all penalties and fines imposed; and all such proceedings shall be as valid and shall be proceeded with, imposed, and carried out in the same way as though this law had not been passed; provided, however, that nothing therein

|| As to rules for native courts, see Government Notice No. 19, 1894 (*infra*); see Ordinance No. 3, 1902.

contained shall be inconsistent with the authority at present exercised by the chiefs and headmen of the natives in the different districts of this Republic, until appointments provided for in this law shall have been made.

2. The laws, customs, or usages hitherto existing among the natives shall continue to remain in force in this Republic as long as they have not appeared to be in conflict with the general principles of civilization recognised in the civilized world.

Native laws,  
etc., remain  
in force.

3. The State President shall be entitled to appoint Commissioners over the natives in districts in which it is considered necessary by the Volksraad in order to carry out all things mentioned in this law and all such orders or instructions as may from time to time be given by the Government. In such districts where the Volksraad considers that the appointment of a Native Commissioner is not necessary or required, the Landdrosts shall be *ex officio* Commissioners for Natives to superintend the work (werkzaamheden) of Field Cornets as Sub-Commissioners.\*

Native Com-  
missioners.

4.† Every Commissioner or Sub-Commissioner for Natives, or native chief, appointed by the Government shall have the power to enquire into and decide all civil disputes between native and native belonging to the tribe or to the neighbourhood over which he has been appointed, and also civil matters preferred before him by white persons against any native belonging to a large or savage tribe within his district or division. In dealing with this last-mentioned matter the Commissioner or Sub-Commissioner shall conduct the same as far as possible in accordance with the laws of the land enacted for the civilized population.‡

Jurisdiction.

5. All matters and disputes of a civil nature between natives shall be dealt with according to the provisions of this law and not otherwise, and in accordance with native laws at present in use and for the time being in force, in so far as the same shall not occasion manifest injustice or be in conflict with the accepted principles of natural equity.

What law  
applicable.

6. *As amended by First Volksraad Resolution of 25th August, 1894, articles one thousand four hundred and eighty-one, one thousand four hundred and eighty-eight, one thousand four hundred and eighty-nine, repealed by Act No. 29 of 1907, section one.*

7. *Repealed by Act No. 29 of 1907, section one.*

8.§ The State President shall from time to time, with advice and consent of the Executive Council, make rules and regulations for the conduct of cases in the Courts for native cases, and shall fix and determine fines, payments, costs, and disbursements for witness expenses to be allowed in the said Courts, which rules and regulations thus made shall be of force after publication in the *Staatskoerant*.

President  
shall make  
rules, etc., for  
Native  
Courts.

\* The additions made to this article by First Volksraad Resolution of 24th August, 1894, Art. 1480, have been repealed by Trans. Proc. 34, 1901.

† See Act. 29, 1907, sec. 3.

‡ Words after "civilized population" have been repealed by Act 29, 1907, sec. 1.

§ See Law 5, 1886, Art. 2.

Homicide,  
assaults, etc.

9. All homicides, assaults, or other injuries caused to the person or property of a native occasioned by sedition among natives or in consequence thereof or by fights between parties of natives or in which a tribe or portion thereof has taken part, and which, in the opinion of the State Attorney after consultation with the Superintendent of Native Affairs, can be more conveniently dealt with by the Commissioner for Natives, may be investigated and decided by the Commissioner of the district in which the crime was committed.

Conspiracy to  
evade giving  
evidence.

10. Where a homicide, assault, or other injury to person or property has been committed, and it is sufficiently clear to the State President that such homicide, assault, or other injury as aforesaid has been committed by natives, and that there exists a conspiracy in any tribe or section of natives to evade the giving of evidence necessary in such case, or to prevent the offender from becoming known, or otherwise, by passive resistance to the lawful authority, to encourage the repetition of such crime or offence, the State President shall have the right to impose a fine on such tribe or portion thereof of not exceeding £5 per head on the adult male population for every offence, recoverable in such manner as the State President shall order, and to cause such fine or portion thereof to be returned if he finds that sufficient cause exists (*wanneer hij termen daartoe vindt*).

President  
may impose  
fine on tribe,

Jurisdiction  
of ordinary  
Courts,

11. All crimes amongst natives for the trial whereof jurisdiction has not by this law been given to the Courts of Native Commissioners shall be and are hereby subjected to prosecution and may be tried in the ordinary Courts of Justice of this Republic, in the same manner as if such crimes had been committed by persons of European descent.

Fines and  
office fees.

12. All fines and office fees fixed in this law shall be paid into the public treasury.

President  
paramount  
chief.

13. The State President, as paramount chief, shall exercise over all chiefs and natives of the Republic all power and authority which, in accordance with native laws, usages, and customs are given to any paramount chief. He is hereby empowered, with the advice and approval of the Executive Council, to depose from his chieftaincy a chief found guilty of an act whereby the peace of the Republic is endangered, to remove him from the place where he has resided, to place him under such supervision and in such safe custody as may appear expedient, and to appoint some other suitable person in his place. A decision of this nature shall not be capable of revision in any Court in this Republic.

Power of  
President,

Regulations  
for adminis-  
tration of  
laws.

14. The State President shall have the power, with the advice and consent of the Executive Council, to make and frame such regulations and such orders as he may from time to time deem necessary and advisable for the better working and maintenance of this law, and all such rules, regulations, and orders shall have the same force and effect as if they had been enacted and formed part of this law.

15. Law No. 11, 1881, providing for the better government and administration of justice among the native population is hereby repealed and put out of force.

Repeal.

16. This law shall come into operation immediately after its publication in the *Staatskoerant* in accordance with article *twelve* of the Grondwet.\*

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SCHEDULE.

*As amended by Ordinance No. 44, 1902, repealed by Act No. 29 of 1907, section one.*

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\* Published in the *Staatskoerant* of 1st July, 1885 (supplement).

## VOLKSRAAD RESOLUTION, 7th May, 1885.

Legalization  
of certain  
marriages.

Art. 53. On the order: Petition of Johann Heinrich Peters and Cathrine Marie Peters (born Johannes), and C. Grotherr and Marie Sophie Dorothea Grotherr (born Loose), dated Jericho, District Pretoria, 16th May, 1884 (V.R.R. 9, 1884), requesting that their marriages, solemnized by the Rev. Behrens on the 17th December, 1880, may be legalized, together with Executive Council Resolution, article *ninety-nine*, dated 8th April, 1885, reading as follows:—

“Resolved: To regard this matter as entirely on the same footing as the marriages solemnized by Mr. Cronje and others during the War of Independence, and to answer petitioners that their marriages also fall under the provision of that resolution† and shall therefore also be recognised as valid.”

The Raad unanimously agreed with the reply sent.

## VOLKSRAAD RESOLUTION, 12th May, 1885.

Recognition  
of titles of  
Land Gosen.

Art. 92.‡ On the order: The second part of Executive Council Resolution, article *two hundred*, dated 29th April, 1885, with the correspondence thereanent as abovementioned (V.R.R. 179, 1885) relating to the recognition of title-deeds issued by the Administrator, G. van Niekerk, and also with regard to the rights to ground lawfully obtained in that portion of Land Gosen, fallen within the South African Republic by the new convention line, as described in Executive Council Resolution.

93. Mr. J. J. Burger proposed that the Raad should agree with the resolution of the Hon. Executive Council, article *two hundred*, dated 29th April, 1885, as regards the recognition of title-deeds and rights to ground.

Mr. Kleynhans seconded.

The Raad unanimously agreed.

Second part of said Executive Council Resolution reads:

On the order: Correspondence exchanged between the Government and Mr. G. J. van Niekerk, Administrator of Stellaland:—

1. . . . .

2. As to the recognition of title-deeds issued by the Administrator, G. van Niekerk, in accordance with the Commission of appointment by the Chief David Massouw Riet Taai Bosch, dated 18th January, 1883, at Mamusa, on grounds which have fallen within the boundaries of the South African Republic by the new convention line;

† See Volksraad Resolution, 15th May, 1883, Art. 74 (*supra*).

‡ See V.R.R., 4th May, 1887, Art. 30 (*infra*); Government Notices 207, 1885 (calling up claims—not published); 459, 1890; 60 and 461, 1894 (appointment of commission—not published).

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Resolved to approve of the said correspondence of the Government, to fully agree therewith, and to propose to the Hon. Volksraad to pass such a resolution; also as regards the rights lawfully acquired of that portion of Land Gosen fallen within the South African Republic by the new convention line.

## GOVERNMENT NOTICE No. 212. §

Dated 20th October, 1885.

Whereas it has been found necessary to more clearly define the functions of the Beacon Commission, now therefore the general instructions for the Beacon Commission, dated 15th December, 1884, are hereby made clear and more fully set out in order to prevent any further misunderstanding.

## GENERAL INSTRUCTIONS FOR THE BEACON COMMISSION.

Beacon Commission to be appointed in every ward.

1. In pursuance of article *eighteen* of Law No. 2, 1884,|| reading as follows:—The Government shall appoint commissions in each ward and provide them with instructions in order to regulate the matters relating to beacons and boundaries prior to the general survey. A Commission, which shall be styled Beacon Commission, shall be appointed by the Government for every ward.

How constituted.

2. The Beacon Commission shall consist of three members of whom the Field Cornet shall be *ex-officio*\* chairman.

Duties.

3. The functions of the Beacon Commission consist merely in the inspection of open grounds or in re-erecting as much as possible in accordance with the inspection reports, farm beacons if they have been lost, bearing in mind that in no single case shall any existing established (*bewezen*) beacons be infringed upon. Witnesses can be summoned only by the Arbitration Commission, not by the Beacon Commission. (See Volksraad Resolution, article *nine hundred and eighty-nine*,† published in the *Staatskoerant* No. 237, 5th August, 1885.)

No power to cite witnesses.

No power to decide disputes.

In the event of disputes as to beacons, the Beacon Commission shall have no power to decide thereon, but the procedure shall be according to article *eight* of these instructions.

New inspection and erection of beacons.

4. The Beacon Commission shall, where the beacons of a farm are unknown or have been lost, inspect such farm anew and erect beacons, bearing in mind that, in case the owners of adjoining farms shall be able to point out their beacons and to prove the same through the old inspectors or by means of affidavits of persons who are acquainted with such beacons always in conformity with the inspection report, such beacons shall in every case be respected, and such beacons shall not be infringed upon.

Old beacons to be respected.

§ Erratum corrected by Government Notice No. 217, 1885, in *Staatskoerant*, 4th November, 1885 (not published).

|| Repealed by Trans. Proclamation No. 34, 1901; these regulations are, however, published on account of their exceptional importance.

\* The original publication in *Staatskoerant*, 21st October, 1884, gives these words as "en officier"; but see instructions of 1884.

† Repealed by Trans. Proc. No. 34, 1901.

According to article *twenty-two* of Law No. 2, 1884,† the Beacon Commission shall, in cases where several farms adjoin each other the beacons whereof cannot be proved, inspect such farms anew as much as possible in accordance with the old inspection reports.

5. A farm shall not be inspected larger than 3,750 morgen, or one hour's walking crosswise (*overkruis*). But if the farm cannot be square, the minutes shall be so divided that the extent of the farm shall be equal to one of one hour's walking crosswise, that is to say, farms which have not already previously been inspected and a greater extent (*meerdere minuten*) was fixed by the inspection report.

6. The Beacon Commission shall in no case interfere with the beacons of any farm unless called upon by the owner to erect beacons which have been lost, or unless it be suspected that there is still Government ground between the farms, always with due regard to article *three* of these instructions.

7. In no single case shall the Beacon Commission infringe upon the beacons of farms surveyed by duly admitted (*goedgekeurde*) surveyors.

8. All disputes as to beacons between owners may first of all be settled through the Field Cornet. If that cannot be done, the procedure shall be in terms of article *twenty-six* of Law No. 2, 1884, reading as follows:—(*These provisions are superseded by articles twenty-three and twenty-four of Law No. 9, 1891.*—Trs.)

9. All open grounds found by the Field Cornet to exist between already inspected farms shall be inspected for the Government by the Commission.

10. The farms shall not be made more oblong (*langwerpiger*) than forty-five minutes' walking at its greatest length, reckoned from the point of application (*aanvraag*), unless the same be remnant ground (*uitgevallen grond*).

11. The Commission shall be bound at the time of the inspection to point out the beacons of the farms to the owners or their representatives. If by reason of insurmountable difficulties it shall be found impracticable to walk off the distance to the one side or the other, the beacons may be located by approximation (*naar gissing aangewezen*). In any case the beacons shall be erected according to law.

12. It shall not always be necessary to take the landmark mentioned in the abstract (*uittreksel*) of a farm as the centre; the centre of the farm may be shifted up to six hundred yards with approval of the Commission.

The point of application (*aanvraag*) shall in any case fall within the farm.

13. The members of the Commission shall fill in the forms of the reports of the Beacon Commission, copies of which shall be sent to them.

† See now Law 9, 1891, Art. 20.

Pointing out  
beacons to  
Surveyor.

14. The Commission shall be responsible for the handing over of the beacons fixed by them to the surveyor after having received at least fourteen days' notice from him.

15. A surveyor shall not be obliged to take over the beacons of less than ten, or more than twenty, farms at the same time, according to circumstances.

Position of  
beacons.

16. The beacons of the farms to be inspected shall, as far as possible, be placed in conspicuous (*zichtbare*) places, and the boundaries (*scheidings*) of the farms as much as possible on the highest portions of the ground.

Kaffir kraals.

17. According to Volksraad Resolution,\* article *one hundred and twenty-four*, 1853, all grounds on which there are large Kaffir kraals belong to the Government, and shall therefore be inspected for the Government.

Fees of  
Beacon  
Commission.

18. Every member of the Beacon Commission shall, for pointing out the beacons of a farm, receive from the owner of the farm a sum of £1 for personal allowance, and 15s. for travelling expenses, and the whole Commission shall, for the inspection of open grounds, receive from the owner £1 3s. for a farm and 10s. for a sketch thereof, besides 15s. for each person for travelling expenses.

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\* Repealed by Trans. Proc. 34, 1901.

**1886.**

## LAW No. 3, 1886.

## ON THE VALIDITY OF SERVITUDES.

(Approved and enacted by Resolution of the Hon. Volksraad, Article 516, dated 12th June, 1886.)

1.† If before the coming into operation of this law a servitude has been granted in a contract of purchase or other written document, such servitude shall be valid, provided the document or a copy thereof, duly certified by the Registrar of Deeds, be registered or attached to the deed of transfer of the property on which the servitude exists in the registry office within the period of two years, even if the deed of transfer itself makes no mention of the said servitude. Oral contracts whereby servitudes have been granted shall, within the abovementioned period, be reduced to writing and tendered for registration.

Registration  
of servitudes.

Oral contracts  
to be reduced  
to writing.

2. No servitude granted after publication of this law shall be valid as against third persons unless in the deed of transfer of the property on which the servitude exists such servitude is duly mentioned and described.

Servitude to  
be mentioned  
in deed of  
transfer.

3. This law, which shall be applicable only to servitudes created by contracts, shall come into operation six months after publication in the *Staatskoerant*.‡

Added to by Volksraad Resolution, 27th May, 1890, Art. 184 (*infra*).

‡ Published in *Staatskoerant* of 23rd June, 1886.

## LAW No. 5, 1886.

TO AMEND THE EXISTING TARIFFS FOR THE COURTS OF THE  
SOUTH AFRICAN REPUBLIC.

(Approved and enacted by Resolution of the Hon. Volksraad,  
Article 594, dated 21st June, 1886.)

Tariff of  
costs in  
Courts of  
Law.

Whereas it is desirable and necessary to amend the existing tariffs, as provided by Law No. 8, 1883, under which the bills of costs in cases heard in the different Courts of the South African Republic are taxed, it is hereby enacted and provided as follows:—

Witness fees.

1. *Superseded by Law No. 19, 1894, article six.\**
2. The provision in Law No. 8, 1883, under the heading "Witness Expenses in Civil Cases," article *one*, is hereby repealed. Every white witness shall be entitled to 10s. per day; coloured persons to 1s. 6d. per day.
- 3, 4, 5, and 6 *superseded by Law No. 19, 1894, articles ten, twelve, thirteen.*
7. This law shall come into operation from the date of publication in the *Staatskoerant*.†

\* See now Law 12, 1899.

† Published in *Staatskoerant* of 14th July, 1886.

## VOLKSRAAD RESOLUTION, 12th August, 1886.

1419. § With alteration of the word “sanitary” into “of sanitation,” the Raad unanimously agreed with Executive Council Resolution, article *one hundred and sixty-four*, dated 12th August, 1886.

Said Executive Council Resolution reads:—

On the order: “Discussion *re* amendment of Law No. 3, 1885.” The Executive Council, recognising the desirability that said law be somewhat amended, and with a view to the short period of session of the Hon. Volksraad;

Resolves to propose to the Hon. Volksraad to authorise the Government to amend said law on the following basis, viz.:—

(1) That after the first paragraph of article *two (b)* of Law No. 3, 1885, shall be added the following: “except only in such streets, wards, and locations as the Government for sanitary purposes shall assign to them to live in”;

Alteration of  
Law 3, 1885  
(on Asiatics).

(2) ‡ [*amending article two (c) of Law No. 3, 1885*];

(3) that article *two (d)* of said law shall read as follows:—“The Government shall have the right for sanitary purposes to assign to them certain streets, wards, and locations to live in. This provision does not apply to those who live with their employers.”

Arab  
locations.

§ This Volksraad Resolution is omitted in *Loc. Wetten, 1886-87.*

‡ Repealed by Act 2, 1907, section 1.

## 1887.

## LAW No. 2, 1887.||

## FOR THE REGULATION OF COPYRIGHT.

(Approved and enacted by Resolution of the Hon. Volksraad, Article 283, dated 23rd May, 1887.)

*Definition and Scope of Copyright.*

Definition and scope of copyright.

1. The right to publish writings, engravings, maps, musical works, plays, and oral lectures (voordracht) by means of printing, as also to perform or exhibit dramatic-musical works and plays in public shall belong exclusively to the author and his assigns.

What is public performance or exhibition.

Every performance or exhibition to which access is once or oftener obtainable upon payment of money or any other valuable consideration, shall be tantamount to a performance or exhibition in public, even in cases where a ballot is required in addition.

Who deemed to be on same footing as authors ; collaborators.

2. The following are placed on the same footing as authors :—

(a) Those who undertake works mentioned in article *one* composed of contributions by different collaborators.

Public institutions, partnerships.

(b) Public institutions, associations, establishments, and partnerships in respect of the works provided by them.

Translators.

(c) Translators in respect of their translations.

In the case of works composed of contributions by different collaborators, each such collaborator shall moreover retain the copyright to the contribution supplied by him in so far as has not been otherwise stipulated.

Anonymous works and works under a fictitious name.

3. In the case of works published by means of printing without the author's name, or under a fictitious name, the publisher, and, if his name also is not mentioned on the title page, or in default thereof on the cover, the printer, shall be deemed to be the author until another person shall have made himself known as the person entitled thereto in the manner determined by articles *ten* and *eleven*, save as to the term of lodging fixed by article *ten*.

No copyright in laws and enactments.

4. Except in the instances to be determined on by the Government, with advice and consent of the Executive Council, there is no copyright in laws, resolutions, ordinances, and whatsoever further orally or in writing is brought to the public notice by or on behalf of any public authority.

What is included in author ; rights.

5. The right of the author includes the exclusive right to publish by means of printing translations of  
(a) his works not published by means of printing, including his oral lectures;

|| See Trans. Proclamation No. 24, 1902, *re* military maps.

(b) his works published by means of printing, if he has in the original issue on the title page, or in default thereof on the cover of the work, expressly reserved to himself the exclusive right in respect of one or more specially mentioned languages, and shall have published or caused to be published his translation by means of printing within three years after the original issue.

In the case of works which consist of separate volumes or numbers this term shall be calculated separately in respect of each volume or number.

6. In the case of simultaneous issue of the same work in different languages, only one issue shall be deemed to be the original and the remaining shall be deemed to be translations.

Simultaneous issues in different languages.

The author shall be entitled to indicate on the title page, or in default thereof on the cover, which issue he considers to be the original.

In default of such indication the issue which is in the mother language of the author shall be deemed to be the original.

7. The copyright of works published by means of printing does not prevent quotations being made therefrom in other works for the purpose of announcements or reviews.

Copyright does not prohibit quotations from protected work.

Provided the source is mentioned it shall be lawful to publish further by means of printing reports and articles taken from daily, weekly, and monthly papers, except where the copyright is expressly reserved at the head of such report or article, and the steps are taken in terms of article *ten*.

8. The copyright of oral lectures shall not preclude the giving of a report of whatever has taken place at a public meeting.

Oral lectures may be reported.

9. The copyright shall be deemed to be movable property.

Copyright is movable property.

It is capable of being ceded wholly or in part, and is transmitted by way of inheritance.

May be ceded.

It is not liable to attachment.

Is not liable to attachment.

*Conditions of the exercise of copyright in respect of works published by means of printing.*

10. The copyright in respect of a work published by means of printing lapses if the author (or his assign), the publisher, or printer, do not lodge with the Registrar of Deeds, within two months after the issue, three copies of the work, all autographically signed on the title page, or, in default thereof, on the cover, mentioning his residence and the date of issue, due regard being had in so far as translations are concerned to the term fixed in article *five* (b).

How copyright lapses.

At the time of lodging a sworn declaration made by the printer that the work has been printed at his printing house established in this Republic shall be produced.

Sworn declaration by printer.

Certificate of registration.

11. The Registrar of Deeds shall give the depositor or depositors a dated certificate of receipt. Of these certificates duplicates shall be kept in his department in a register which everybody may inspect, free of charge, and of which he may at his own cost obtain an extract or copy.

The form of certificate and register shall be determined by the Government.

Monthly return in *Staatskoerant*.

A statement of works and translations lodged shall be published monthly in the *Staatskoerant*.

Exclusive right to perform plays, how lost.

12. The exclusive right to perform or exhibit dramatic-musical works or plays is lost as soon as these works are published by means of printing, unless the author in the original issue on the title page, or in default thereof on the cover of the work, expressly reserves to himself this right.

#### *Duration of Copyright.*

Duration of copyright.

13. The copyright of works published by means of printing shall last for fifty years after the first issue, to be reckoned from the date of certificate of receipt mentioned in article *eleven*.

Should the author outlive this term and not at any time have ceded his right to another, he shall retain that right during his life. This provision shall not apply in respect of the persons (*rechthebbenden*) mentioned in article *two (a)* and *(b)*.

Duration of work not published.

14. The copyright of works not published by means of printing, including oral lectures, shall last during the lifetime of the author, and for thirty years after his death.

Duration of exclusive right to produce plays, etc.

15. The exclusive right to perform or exhibit dramatic-musical works or plays shall last

(1st.) in respect of works not published by means of printing, during the lifetime of the author and thirty years after his death;

(2nd.) in respect of works published by means of printing where such exclusive right was reserved, during ten years from the date of the certificate of receipt mentioned in article *eleven*.

Duration of right to translation.

16. The exclusive right to publish translations by means of printing shall last

(1st.) in respect of works not published by means of printing, including oral lectures, for so long as the copyright thereon exists;

(2nd.) in respect of works published by means of printing, during five years from the date of the certificate of receipt mentioned in article *eleven*.

Volumes and numbers.

17. In the case of works consisting of different volumes or numbers, the term of the copyright shall be calculated separately in respect of each volume or each number.

*Vindication of the Copyright.*

18. He who infringes the copyright of another, or who sells, imports, distributes, publicly exposes for sale, or has in his possession for the purpose of selling, a work, whereby an infringement is made upon the copyright of another, renders himself liable to a civil action for damages on the part of the author or his assigns. Vindication of copyright.

19. Authors or their assigns may seize (in beslag nemen) copies which, in contravention of their exclusive right, are published by means of printing, and may claim delivery or destruction of such copies. Seizure.

This seizure cannot be applied to single copies in the possession of persons who do not trade in such articles and who have obtained them for their own use. But not of single copies.

*Transitory Provisions.*

20. No copyright of a work published by means of printing before this law shall have come into operation shall be exercised, unless the author (or his assign), publisher, or printer, within six months after this law shall have come into operation, shall lodge with the Registrar of Deeds three copies, all of them autographically signed on the title page, or in default thereof on the cover, mentioning his residence and the date of the original issue. Transitory provisions.

The last-mentioned date shall, subject to proof to the contrary, be taken as the point from which the duration of the copyright is to be calculated.

A declaration as mentioned in the second paragraph of article *ten* shall also in this case be sent in.

21. The Registrar of Deeds shall give the depositors a dated certificate of receipt. Certificate of registration.

A duplicate of such certificate shall be kept in his department in a register which everybody may inspect free of charge, and of which he may at his own charge obtain an extract or copy. The Government shall determine the form of certificate and register.

A statement shall be published monthly in the *Staatskoerant* of the declarations and works sent in, mentioning the date of the original issue of the works sent in as stated by the depositor. Monthly returns in *Staatskoerant*.

*Concluding Provisions.*

22. Of the three copies sent in to the Registrar of Deeds, in terms of articles *ten* and *twenty*, one shall remain deposited in his office and one shall be placed in the State Library. The destination of the third copy shall be indicated by the Government.

23.\* *The State President shall have the right to confer by proclamation all privileges granted by this law on owners of copyright of books, writings, engravings, maps, musical* Copyright of foreign books and publications.

\* This article has been added by Second Volksraad Resolution, 1st June, 1895, Article 298 (*infra*).

If reciprocal. *works, plays, etc., as mentioned in article one of this law, issued in any State or Colony and there printed, provided all privileges according to the copyright existing there are conferred by such State or Colony on owners of the copyright of books, writings, engravings, maps, musical works, plays, etc., as mentioned in article one of this law, issued and printed within this Republic.*

24.† This law shall come into operation three months after publication in the *Staatskoerant*.‡

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† Originally Art. 23 ; see S.V.R.R., 1st June, 1895, Art 298 (*infra*).

‡ Published in *Staatskoerant* of 1st June, 1887.

## LAW No. 3, 1887.

TO APPOINT A SPECIAL COMMISSION FOR THE DISTRICT  
OF WATERBERG.

(Approved and enacted by Resolution of the Hon. Volksraad,  
Article 379, dated 27th May, 1887.)

Whereas some inspections carried out in the District of Waterberg have not been executed either wholly or in part with such precision as to give sufficient certainty as regards situation, extent, and boundaries of all farms; and whereas also in some instances different inspections do not agree with one another; and whereas, further, surveys have also been made not according to the inspection reports, so that overlappings have occurred; Preamble.

It is hereby enacted and provided as follows:—

1. A Special Commission shall be appointed by the Government, consisting of three members, whose task shall be: to put in order the inspections made for the District of Waterberg, that is to say, to locate on the area described the farms for which title-deeds have been issued, in so far as such can be done, to fix, determine, or adjudge the situation, extent, and boundaries of such farms when they cannot be made out according to the old inspections reports, or *cannot be made out*§ with precision, or are not consistent with each other, to erect beacons, to frame, if necessary, new inspection reports, and in general to do everything which is necessary or desirable to put an end to all uncertainty and confusion as regards situation, extent, and boundaries of the said farms. Special Commission. Appointment and scope.

2. The Special Commission shall, as far as possible, follow the old inspection reports and recognise lawful beacons. It shall also take into consideration (acht geven op) approved diagrams. Commission to follow old inspection reports and beacons.

This does not, however, take away the right of the Commission to set aside such reports and diagrams, and to substitute for them new inspection reports if the old reports and diagrams are in themselves or mutually inconsistent or are not in agreement with each other, or wholly or partly refer to the same piece of ground or in case a report indicates a different piece of ground than the corresponding diagram. When these may be set aside.

3. The Government shall, if necessary, appoint more than one such Special Commission. In such case all that is said in this law as to the Commission shall apply to all such Commissions. Other Special Commission s.

At least one examined and sworn surveyor shall have a seat on every Commission. One member to be a surveyor.

Every Field Cornet of the District of Waterberg shall also have a seat on every Commission engaged in his ward. Field Cornet to have seat on Commission.

§ Words in italics inserted by Trs.

Also old inspectors.

One or more of the old inspectors shall, if possible, be added to the Commission to take part in its labours in so far as their respective inspections are concerned.

Scope may be limited.

4. Old inspections of the District of Waterberg may be wholly or in part withdrawn from the work of the Special Commission by the State President, with the advice and consent of the Executive Council.

Right to take evidence, and to fine absent witnesses.

5. The Special Commission shall have the right, for the purpose of this law, to summon witnesses and examine them under oath, and, on failure to appear, to impose on them a fine of from five to fifty pounds sterling according to the nature of the case, and such fines shall be recovered by the respective Landdrosts.

Remuneration of witnesses.

The witnesses shall be entitled to remuneration in accordance with the tariff for witnesses in civil cases.

Expenses of Commission.

6. The expenses of this special inspection shall be advanced by the Government, but shall be repaid pro rata by the owners.

How recoverable.

Such moneys shall be recoverable in the same manner as the direct taxes.

On payment of such moneys the new inspection report, if one is made, shall be issued to the owner.

Oral or written submission of case by owner.

7. Every owner shall be entitled, in accordance with regulations to be hereafter made by virtue of article *twelve*, to submit his case (belangen) or cause it to be submitted to the Commission orally or in writing.

Open ground to be inspected for Government.

8. All open grounds shall be divided into farms by the Commission and inspected for the Government.

General compilation plan.

9. The Commission shall frame for the Government a general compilation plan, showing the situation of the farms, mountains, rivers, roads, etc., and giving the respective names.

Appeal to Executive Council.

10. From the decision of the Commission there shall be an appeal only to the Executive Council whose decision shall be final.

Decision final.

The judgments, decisions, and findings (bepalingen) of the Commission, or, in case of appeal, of the Executive Council, shall be valid in law.

When diagrams may be issued.

11. No diagrams of farms belonging to the inspections mentioned in this law shall be approved and signed until the State President shall have announced by proclamation in the *Staatskoerant* that the labours of the Commission have ended.\*

\* Completion of labours by Special Commission:—Bloemhof: Proc. (Admn.) No. 26, 1904; Lydenburg: Procs. 13/1/91, 29/6/94, 28/2/95, 16/5/97, 14/3/98, 26/1/99, Procs. (Admn.) Nos. 21, 1905; 109, 1905; 27, 1907; Marico (Ward Bushveld): Proc. 9/4/95; Middelburg: Proc. 13/1/91; Rustenburg (Ward Hexrivier): Proc. 29/4/90; (Ward Elandsrivier), Procs. 30/10/91, 5/3/92; Waterberg (Ward Nyistroom): Procs. 21/5/89, 5/10/91, 4/4/92, 5/8/92, 30/9/92; (Ward Zwagershoek) Procs. 20/7/91, 3/10/91, 12/10/91, 13/2/92, 18/7/92, 12/9/92, 25/8/93, 12/1/94, 21/1/95, 9/4/95, 19/11/96, 16/2/97; Zoutpansberg (Ward Houtboschberg): Procs. 30/9/90, 9/2/93; (Ward Marabastad) Procs. 30/9/90, 30/5/91, 28/12/91; (Ward Rhenosterpoort) Procs. 30/9/90, 19/5/93, 5/4/97; (Ward Spelonken) Procs. 30/9/90 (two).

12. The State President is hereby empowered and authorised, with the advice and consent of the Executive Council, to take such measures, to make such provisions, and to issue such regulations (with regard to costs or otherwise) as may appear to him to be necessary or useful for the carrying out of this law.

President to  
frame  
regulations.

13. This law shall come into operation immediately after publication in the *Staatskoerant*,<sup>‡</sup> and shall be made applicable to such other districts where it may be required.<sup>§</sup>

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<sup>‡</sup> Published in *Staatskoerant* of 1st June, 1887.

<sup>§</sup> Applied to the following districts:—Zoutpansberg, by Proc. 29/6/87; Rustenburg, by Proc. 15/8/87; Middelburg, by Proc. 20/3/88; Lydenburg, by Procs. 20/3/88, 30/4/91, Proc. (Admn.) No. 16, 1904; Marico, by Proc. 30/3/94; Bloemhof, by Proc. (Admn.) No. 66, 1903.

## VOLKSRAAD RESOLUTION, 4th May, 1887.

Compensation  
for farms  
excluded  
from Republic  
by Pretoria  
Convention.

Art. 30†. The Raad, taking into consideration article *twenty* of the Convention of Pretoria (retained in the Convention of London as article *eleven* thereof) whereby all title-deeds and grants (schenkingen) of ground, falling beyond the boundary line fixed by the said Convention of Pretoria, have become and still are null and ineffective, and whereby a right to compensation to be fixed by the Volksraad has been substituted for the claim to ground;

Taking further into consideration that already from the year 1881 the opportunity has existed to apply for and obtain such compensation;

Taking further into consideration the desirability to make an end to these compensation matters, and that this compensation question be finally settled as regards the western border as well as the eastern border of this Republic;

Claims to be  
sent in  
within fixed  
period.

Resolves to instruct the Government to fix a period (not shorter than six and not longer than twelve months) within which all claims to compensation for grounds which through the boundary line of the Pretoria Convention have fallen beyond the territory of this State, and the title-deeds and grants whereof are therefore null and void shall have to be sent in; provided that no application for compensation sent in after lapse of that period shall be taken into consideration any longer, and the right to compensation shall then be lost;

Or become  
void.

Resolves further to instruct the Government to make such rules and regulations as it may deem necessary or desirable for the purpose in order to carry out this matter;

Rules and  
regulations.

Taking further into consideration Volksraad Resolution, article *ninety-two*, dated 12th May, 1885, whereby the title-deeds issued by the Administrator Van Niekerk in the former territory called Stellaland are recognized, and recognizing the desirability of removing all doubt concerning the meaning or the intention of this Volksraad Resolution;

Recognition  
of titles of  
Stellaland.

Resolves and declares hereby that by that Volksraad Resolution (daardoor) are and have been recognized all title-deeds issued by the Government or Committee of Administration of the territory formerly known as Stellaland, or by the Administrator or the Chairman of the Committee of Administration of that territory in agreement with and in consequence of the treaties with and the declarations and cessions and instructions of the late Supreme Chief David Massouw Riet Taaibosch, specially the treaty of peace of the 26th July, 1882, and the cession of the 19th September, 1882, or the committee of appointment of 18th January, 1883, namely, in so far as those title-deeds relate to ground which has fallen within this Republic by reason of the boundary line

† Published in *Staatskoerant*, 22nd June, 1887.

fixed in the Convention of London, and subject to the further condition that all stipulations and provisions to which those title-deeds were subject have been complied with;

Resolves further that these title-deeds shall have to be exchanged against title-deeds to be issued by His Honour the State President, according to the regulations here in force thereanent, and instructs the Government in the carrying out hereof to make such rules and regulations as it shall deem necessary and desirable in the interest of the matter and the speedy execution thereof.

Exchange of  
title-deeds.

This resolution to be of force immediately.

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VOLKSRAAD RESOLUTION, 14th June, 1887.\*

Art. 540. The Raad having considered the petition of Rev. Postma and D. E. F. Maré, Secretary of the Kerkeraad of the Gereformeerde Gemeente at Bethal, asking for a piece of ground called "Goede Verwachting" in support of the erection of a church at Bethal, resolves to instruct the Government to grant this piece of ground, if registered in the name of the Government, and if there are no other lawful obstacles thereto. The Raad resolves to make this grant in favour of the Gereformeerde Gemeente of the whole district of Standerton since it cannot grant ground to more than one congregation of the same church community belonging to one and the same district. This rule to apply also in future to all similar requests.

Grant of  
ground in  
support of  
erection of  
churches.

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\* See V.R.R. 29/5/88, Art. 267 (*infra*); V.R.R. 24/5/90, Art. 175 (*infra*); F.V.R.R. 17/8 96, Art. 1212 (*infra*); F.V.R.R. 6/8/97, Art. 804 (*infra*).

**1888.**

## TREATY OF UNION.†

BETWEEN THE SOUTH AFRICAN REPUBLIC AND THE  
NEW REPUBLIC.

The Volksraad of the South African Republic in the name of the State and the people of the South African Republic, and the Volksraad of the New Republic in the name of the State and the people of the New Republic, animated by the desire to unite both Republics into one and an indivisible State, have resolved to conclude a Treaty of Union for that purpose and have nominated as authorised representatives (gevolmachtigden) the Volksraad of the South African Republic, the Government of the South African Republic, represented in this matter by His Honour Stephanus Johannes Paulus Kruger (State President of the South African Republic) and the Hon. Mr. Willem Eduard Bok (State Secretary of the South African Republic); the Volksraad of the New Republic, the Government of the New Republic, represented in this matter by His Honour Lucas Johannes Meyer (State President of the New Republic) and the Hon. Mr. Philippus Rudolf Spies (Chairman of the Hon. Volksraad of the New Republic), who after mutual exhibition (meede deeling) of their powers found to be in good and proper form, concluded the following treaty:—

1. The New Republic and the South African Republic declare hereby to unite themselves into one State.

2. This union takes place in this manner that the New Republic joins the South African Republic. The name of the State after union shall be "The South African Republic." The territory of the present New Republic shall therefore, after the Union, form a part of the territory of the South African Republic.

3. The territory of the New Republic is included within the boundaries which by mutual convention between the Government of the United Kingdom of Great Britain and Ireland and that of the New Republic have been fixed as the boundaries of the New Republic.

4. This territory shall be incorporated as a district (in all respects equal to the other districts) of the South African Republic, under the name of "Vryheid," until this territory may afterwards be divided into two or more districts, or may be added wholly or in part to other districts, or may be dealt with in another manner by the lawful authorities of the South African Republic.

Immediately after the accomplishment of the union an election shall be opened (uitgeschreven) by the Government of the South African Republic for Volksraad members,

\* Published in *Staatskoerant*, 19th September, 1888.

representatives of the then formed District Vryheid, up to such a number that the District Vryheid shall then stand on equal footing with one of those districts of the South African Republic which elect the greatest number of Volksraad members.

5. The New Republic joins the South African Republic, and the South African Republic takes over the New Republic with all properties, assets, debts, and obligations of the New Republic.

6. All documents, papers, etc., belonging to the New Republic or in the possession of the Government of the Republic with regard to foreign or internal affairs, politics, administration, etc., shall immediately be handed over to the Government of the South African Republic.

7. Conventions entered into between the Government of the New Republic and that of the United Kingdom of Great Britain and Ireland are recognised by that union.

8. All title-deeds, which are valid according to the laws of the New Republic, shall be recognised by the South African Republic.

9. The persons who at the date of the union have acquired burgher right in the New Republic, shall from that date be burghers of the South African Republic.

10. The persons recognised and admitted in the New Republic by the Government to practise one or other calling, shall after the union be entitled to continue exercising such calling under the laws of the South African Republic.

11. The persons who at the date of the union are officials of the New Republic, shall from that date cease to be officials unless they are reappointed by the Government of the South African Republic. The following provisions shall apply in that respect:—

(a) To the persons who at the date of union are officials of the New Republic is guaranteed as a grant, retention of their salary [with due regard to what is provided in (c)] for the period of one year from such date of union.

(b) In case those persons be appointed by the Government of the South African Republic to an office or position to which is attached the same or a higher salary than was enjoyed by him before the union as official of the New Republic, then such grant ceases, and in case a lower salary be attached to such an office or position than was enjoyed by such persons before the union as officials of the New Republic, then such grant shall be reduced by the amount of the salary which they shall after the union receive from the South African Republic.

(c) As basis for the calculation of the said grant shall be taken the average income enjoyed by the said officials of the New Republic out of the Treasury of that Republic in the last year immediately preceding the date of the union.

12. Remission of punishment and prosecution is granted to all persons who before the date on which this treaty is

signed, being accused or convicted of one or other crime (except murder) in the South African Republic, have sought and found refuge in the New Republic.

13. From the date of the union the laws of the South African Republic only shall apply in all parts of the united territory.

14. All judgments given by lawful courts of justice in the New Republic up to the date of the union, and all decisions given by the Executive Council of the New Republic up to the date of the union, shall be of force and be recognised in all courts of the South African Republic.

15. The taxes shall after the union be levied in the territory of the present New Republic, according to the laws now of force in the New Republic until further provisions shall have been made thereanent by the Volksraad of the South African Republic.

16. This treaty shall be subject to the ratifications\* by the Volksraads of the South African Republic and the New Republic respectively, and shall come into operation from the date of exchange† of the deeds of ratification, which exchange shall be made by authorised representatives specially delegated for that purpose. A deed of such exchange to take place at Vryheid shall be drawn up by the delegates of both States which shall be preserved, together with the act of ratification, in the archives of the South African Republic.

In witness whereof the authorised representatives of both sides have signed this treaty and have fixed their seal thereto.

Done at Pretoria on the fourteenth day of the month of September in the Year of Our Lord Eighteen hundred and Eighty-seven.

S. J. P. KRUGER,  
State President of the S.A.R.  
W. EDUARD BOK,  
State Secretary of the S.A.R.

L. J. MEYER,  
State President of the New Republic.

PH. R. SPIES,  
Chairman of the Volksraad of the  
New Republic.

\* Ratified by Volksraad Resolution, 2nd July, 1888, Art. 787. See also Convention with United Kingdom (*infra*).

† See Volksraad Resolution, 8th May, 1889, Art. 49 (exchange of ratifications—repealed), and Volksraad Resolution of 6th June, 1889, Art. 369–371 (transition regulations—not published).

## A CONVENTION‡

BETWEEN HER MAJESTY THE QUEEN OF THE UNITED KINGDOM OF GREAT BRITAIN AND IRELAND AND THE SOUTH AFRICAN REPUBLIC.

Whereas on or about the 14th day of September, 1887, a certain Treaty of Union was signed and executed by His Honour Stephanus Johannes Paulus Kruger, State President of the South African Republic, and the Honourable Willem Eduard Bok, State Secretary of the said Republic, as representatives of the Volksraad and Government of the said Republic, of the one part, and Mr. Lucas Johannes Meijer and Mr. Philippus Rudolph Spies as representatives of the Volksraad and Government of a certain community therein styled the New Republic, of the other part, which Treaty of Union has not hitherto been completed and ratified by the Volksraads of the South African Republic and of the said community, and whereas by the fourth article of a Convention, duly made and entered into on the 27th day of February 1884 by and between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and the South African Republic, commonly called the Convention of London, the South African Republic did covenant and agree not to conclude any treaty or engagement with any State or Nation other than the Orange Free State, until the same has been approved of by Her Majesty the Queen, and whereas Her Majesty the Queen has been pleased to accord her approval to the said Treaty of Union, when completed and ratified by the aforesaid Volksraads in manner hereinafter set forth, provided this present Convention shall be duly executed, completed and ratified by and between Her Majesty the Queen and the Government and Volksraad of the South African Republic, and whereas it is expedient and necessary in and by this Convention to add certain clauses to the definition of the boundaries of the South African Republic, as set forth in the first article of the Convention of London, and to provide for a renunciation by the Government of the South African Republic on behalf of the said Republic, and of the said community the territory whereof will by the said Treaty of Union be incorporated with and into the said Republic, of all claims which heretofore the Government of the said community may have advanced to exercise a Protectorate over the whole or any portion of the territory known as Zululand and now annexed to and forming portion of Her Majesty's dominions and where as it is also expedient and necessary to make suitable provision for the proper care and preservation of the graves of certain Zulu chiefs which graves are situated within the boundaries hereinafter defined as including portion of the territory of the South African Republic.

‡ Published by Govt. Notice No. 248, 1888, in *Staatskoerant*, 12th September, 1888.

Now therefore Her Majesty the Queen has been pleased to direct and it is hereby declared, that the following articles of a new Convention, signed on behalf of Her Majesty by Her Majesty's High Commissioner in South Africa, the Right Honourable Sir Hercules George Robert Robinson, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, Governor of the Colony of the Cape of Good Hope, and on behalf of the South African Republic by His Honour Stephanus Johannes Paulus Kruger, State President of the said Republic, shall, as and from the date of the taking effect thereof be deemed and taken to constitute a binding treaty and engagement between Her Majesty the Queen and the South African Republic, and shall be read and construed in supplement of and together with the Convention of London aforesaid.

## ARTICLES.

1. This Convention shall not take effect or come into force unless and until

(a) it shall have been duly completed and ratified\* by the Volksraad of the South African Republic, and

(b) the Treaty of Union signed and executed as aforesaid on the 14th day of September, 1887, shall have been completed and ratified by the Volksraad of the South African Republic, and by the Volksraad of the community styled in the said Treaty of Union the New Republic unless such completion and ratification of this Convention and of the said Treaty of Union shall have taken place within six months from the date of execution hereof, this Convention shall become null and void to all intents and purposes.

2. The territory of the South African Republic shall in addition to the territory defined in the first article of the Convention of London, embrace and include all land lying between the following boundaries, to wit:

Beginning from the point where the Pongolo River passes through the Libombo Range below beacon XXXI, hereinafter described;

Thence up the Pongolo River to its junction with the Bivana River;

Thence up the Bivana River to its junction with the Penwana River;

Thence up the course of the Penwana River to its source where the road from Kambula Camp to Burger's Laager crosses;

Thence to a beacon on Kambula Hill;

Thence 800 yards to a white rock where the White Umfolose rises;

Thence down the White Umfolose to its junction with the N'Sonto River;

\* Ratified by V.R.R. 28th June, 1888, Art. 688 (not published).

Thence up the N'Sonto River and 80 yards from the river to a beacon situated on a spur of the N'Qaba-Kashwana Mountains;

Thence 80 yards to the source of the Dudusi River or Lijnspruit;

Thence down the Dudusi to its junction with the Blood River;

Thence down the Blood River to its junction with the Undhlenefu Stream;

Thence up the Umdhlenefu Stream to a beacon (Hyendhlovu Rock);

Thence down the Umvunyana River to its junction with the Nondweni River;

Thence up the Nondweni River to a beacon on the Igogo Hill;

Thence to a beacon and the source of the Umhlatuzi River in the Iabanango Hill;

Thence down the Umhlatuzi River to a drift where the wagon road leading from Nkandhla Mountain crosses (beacon I);

Thence along the wagon road to beacon II on Unqaqa or Hyelenimbi Hill;

Thence about 2,000 yards to beacon III;

Thence to beacon IV on Amazizi Range;

Thence to beacon V near the source of the Indhlovane Stream;

Thence by beacons VI, VII, VIII, IX, X, XI, XII, XIII, to beacon XIV situated at Ulundi Drift of the White Umfolosi;

Thence along the White Umfolosi to beacon XV, being the same as beacon No. I of the line of second inspection;

Thence to beacon XVI, on the eastern spur of Kapela Hill;

Thence to beacon XVII, on a stony hill above Umhlahlane Neck;

Thence to beacon XVIII on the Umancauca Range;

Thence to beacon XIX on the south-east ridge of the Idhlebe Hill;

Thence to beacon XX, being the same as beacon No. II of the line of second inspection on Idhlebe Hill,

Thence to beacon XXI, on Ugedhla or Umdaja Hill;

Thence to beacon XXII, being the same as beacon No. III of the second inspection on Ceza Hill;

Thence to beacon XXIII near northern extremity of the Ungalondi spur;

Thence to beacon XXIV on Undindini Range;

Thence to beacon XXV on the Unjabasi Hill;

Thence to beacon XXVI, being the same as beacon No. IV of the second inspection on the Isibuja Hill;

Thence to the source of the Impalaza Spruit (called Magodogodo or Gotogoto);

Thence down the Impalaza Spruit to the junction with the Umkusana River;

Thence down the Umkusana River to its junction with the Umkusi River;

Thence down the Umkisi River to beacon XXVII, at the Umkisi Poort, near the southern extremity of Udonzagolo Ridge;

Thence along the watershed of the Libombo to beacon XXVIII on Umangwazana Hill;

Thence to beacon XXIX on Emandibeni Ridge;

Thence to beacon XXX on Uzibobalane Hill on the edge of the krantz overlooking the western side of the mountain;

Thence to beacon XXXI on the top of Ngabeni Hill;

Thence along the watershed of the Libombo Range to the starting point where the Pongolo River passes through the Libombo Range.

3. The Government of the South African Republic on its own behalf and also on behalf of the community styled in the Treaty of Union aforesaid the New Republic hereby for ever renounces all claim heretofore advanced by the Government of the said community to exercise a Protectorate over the whole or any portion of territory known as Zululand, and now annexed to and forming portion of Her Majesty's dominions.

4. The Government of the South African Republic hereby agrees and engages to use every endeavour and afford every assistance to the British Officer appointed to reside in the South African Republic with a view to making due provision for the proper care and preservation of the graves of certain Zulu chiefs which are situated in the territory hereinbefore defined as hereinafter more specifically described and set forth, and to that end the said Government agrees and engages to endeavour to procure the consent of the several proprietors of the land whereon the said graves are situated to the expropriation of land and to the enclosure with stone walls of any or all of the said graves with suitable margin of adjacent ground, and further to endeavour to procure the consent of such proprietors to the granting of free rights-of-way to any or all of the said graves at all reasonable times to such person or persons as may be approved of and appointed by Her Majesty's Commissioner for Zululand, to attend to and secure the proper care and preservation of any or all of the said graves, provided that the cost of such expropriation or enclosure of land and of caring for and preserving such graves shall not devolve upon or be borne by the Government of the South African Republic.

The following are the names of the Zulu Chieftains and Kings whose graves are situated in the Makosini District:—

1. Umtombela.
2. Uzulu.
3. Nkosinkulu.
4. Mpunzu.

5. Uimageba.
6. Undaba.
7. Mjama.
8. Senzanqokona.

5. This Convention, together with the Convention of London aforesaid, shall have full force and effect in respect of the entire territory of the South African Republic as defined by this Convention and by the Convention of London.

6. The obligations which the South African Republic takes over from the New Republic with regard to Her Majesty's Government are limited to the territory of the New Republic, and are subject to the same conditions upon which the engagements rest upon the New Republic.

Signed at Government House, Capetown, this twentieth day of June, 1888.

HERCULES ROBINSON,  
High Commissioner.  
GRAHAM BOWER,  
Imperial Secretary.

Signed at Government Offices at Pretoria this eleventh day of June, 1888.

S. J. P. KRUGER,  
State President.  
W. EDUARD BOK,  
State Secretary.

*M. J. van der Merwe*  
 & J. J. van der Merwe

LAW No. 3, 1888.\*

CONTAINING PROVISIONS AGAINST THE ILL-TREATMENT OF  
 ANIMALS.

(Approved and enacted by Volksraad Resolution, Article 268,  
 dated 29th May, 1888.)

Preamble.

Whereas it is desirable to prevent and penalise the ill-treatment of animals, it is hereby provided and enacted as follows:—

Penalties for cruelty to animals.

1. He who wilfully treats an animal in a cruel manner shall be punished by imprisonment with or without hard labour not exceeding three months or a fine not exceeding twenty-five pounds sterling.

If the offence has been committed in public, imprisonment with or without hard labour, not exceeding four months, or a fine not exceeding forty pounds sterling shall be inflicted.

Imprisonment with or without hard labour may be inflicted as an alternative in the event of non-payment of the fine.

Further

2. The following persons shall be punished by imprisonment not exceeding one month or by a fine not exceeding ten pounds sterling:—

1st. He who shall cause animals to pull or carry a burden which is obviously in excess of their powers.

2nd. He who shall cause any conveyance by means of draught animals or beasts of burden to take place in a needlessly painful or tormenting manner.

3rd. He who conveys animals in a needlessly painful or tormenting manner.

Imprisonment may be alternatively inflicted in the event of non-payment of the fine.

3. This law shall come into operation immediately after publication in the *Staatskoerant*.†

\* Added to by Volksraad Resolution, 8th May, 1889, Art. 44 (*infra*); see V.R.R. 29th May, 1888, Art. 281 (Government instructed to enforce this law—not published).

† Published in *Staatskoerant* of 13th June, 1888.

## LAW No 8, 1888.†

FOR THE HOLDING OF MARKETS IN THE SOUTH AFRICAN  
REPUBLIC.

(Approved by Volksraad Resolution, Article 358, dated 16th June, 1883, as amended by Volksraad Resolution, Article 481, dated 15th June, 1888.)

1. Market shall be held on the market square of every village by the market master appointed by the Government, except in such towns where a Town Council has been established, when the appointment shall be made by the Town Council. Market and market master.
2. Market shall be held one hour after sunrise every day of the year with the exception of Sundays and Church holidays (*Christelike feestdagen*). The bell shall be rung for the first time half an hour after sunrise. The market shall continue until everything that is brought to market shall have been offered for sale. Time when market is to be held.
3. It shall be permitted to no person during the market hours to ride about amongst, and to the hindrance of, those attending the market, or amongst the goods which are put up to auction. Disturbance of market forbidden.
4. *Repealed by Proclamation (Transvaal) 34 of 1901.*
5. The market master personally shall neither for himself nor for another bid or purchase on the market. Market master may not bid.
6. The entries made of the sale as well as the writing of the market notes shall be done in ink. Entries.
7. The market master shall sell all goods brought to the market by public auction to the highest bidder; the sales shall be for cash. Selling by public auction, for cash.
8. The market master shall hand the seller a market note, which shall set out in columns: The name of the seller, the name of the purchaser, the articles purchased, and the price; and a column shall be left open on such market note in which column upon delivery of the article purchased, the purchaser or person who receives the article purchased for him shall place his name. Upon exhibition of the market note so signed the seller shall be entitled to receive the amount from the market master. (As to form of market note see model "A" annexed hereto.) Market notes.
9. Purchasers shall pay the market master on the day of sale before 12 o'clock noon at his office, in default whereof they shall pay 5 per cent. for collection. The market master Payment by purchasers.

† See Volksraad Resolution, 24th June, 1889, Art. 510 (*infra*). Law 8, 1888, does not apply to markets established in municipalities: see Ord. 41, 1904, section *thirty* (1); Ord. 31, 1902, section *six* (Pretoria); Ord. II (Priv.), 1906, section *ninety-six* (2) (Johannesburg); Act 12 (1910) section *five* (2) (Pretoria); see S.V.R.R. 22nd May, 1896, Art. 268 (*infra*); F.V.R.R. 27th July, 1897, Art 699 (*infra*).

shall further see to the payment of the purchased articles in the ordinary course. And he may thereafter refuse to accept a bid from such refusing purchaser.

Market books.

10. The market master shall keep proper books (in such form as may be prescribed for him) of all Government dues to be paid in by him, payable upon the articles sold on the market, which dues shall amount to  $2\frac{1}{2}$  per cent., except in respect of wines, spirituous liquors, etc., which come from beyond this State [see article *fifteen*, paragraph (*m*)].

Government dues.

When articles are not sold.

11. Where an article which is put up to auction is not sold, the owner or the person in his place shall pay the sum of 2s. 6d. to the market master for the benefit of the Government on each wagon, or vehicle, or otherwise upon the article put up. The market master shall not knock down to the purchaser the article put up without obtaining the consent of the sellers thereto; and in the event of a dispute between purchasers, the market master shall again put up the same.

Disputes.

Government dues deposited weekly.

12. The market master shall weekly pay in to the Landdrost of the district all moneys which shall accrue to the Government from the proceeds of the market, and shall at the same time have his books examined and approved.

13. The market master shall as far as possible prohibit all sales which are not permitted according to this law.

No private sale until article has been put up to auction.

14. No person, after having brought his produce on to the market square, shall have the right to sell the same before they have been first put up to auction on the market, failing which no person shall have the right to purchase the same.

How articles are sold (weights and measures).

15. Produce, etc., shall be sold as follows:—

(a) Meal (wheat): per muid of 200 pounds.

(b) Mealies, bread mealies, pan salt, barley, oats, rye, kaffir corn, beans, lentils, lime: per bag of 8 buckets.

(c) Potatoes, sweet potatoes, onions: per bag of 8 buckets or portions thereof.

(d) Wool, ivory, ostrich feathers, butter, pork, and salt meat, dry fruits, etc.: per pound.

(e) Oatsheaves and green forage: per bundle; chaff: per bale or bag.

(f) Firewood: per load.

(g) Coal: per 100 pounds or portion.

(h) Yellow-wood planks, beams, and all sorts of timber, also wood for wagons, doors, windows, lintels, and testers or hoods: by the foot, per piece, or by the lot; rafters: per piece; poles, Spanish reeds: per 100; thatching: per 100 bundles, reckoned at a 6 inch diameter.

(i) Oranges, apples, etc.: per 100.

(k) Vegetables: in lots, at the option of the seller.

(l) Eggs: by the dozen.

(m) Wine and spirituous liquors: per gallon. Import duty shall be paid on such liquors if imported from abroad unless they are products of the Orange Free State and may not be sold on the market before such import duty shall have been paid.

(n) Horses, great stock, sheep, goats, pigs, poultry, etc. : per head.

(o) The articles not mentioned here shall be sold as the market master may elect.

16. Every person who shall bring meal, grain, oats, butter, sweet potatoes, wool, vinegar, potatoes, wine, spirituous liquors, etc., to the market for sale, shall, if required, before the sale furnish the market master with a sample for comparison with what is put up at auction. This sample need not be larger or more than is necessary to form a judgment of the quality of that particular kind. No purchaser shall be obliged to take delivery of what is sold if it is worse than the sample. In the event of dispute the market master shall decide; the losing party shall pay the costs to the market master not exceeding 10s., say, ten shillings sterling. An appeal may be made to the Landdrost who shall summarily decide.

Samples.

Goods delivered to conform with sample.

17. All produce or articles sold on the market shall be delivered by the seller at the house of the purchaser or at his place of business within the village. Immediately after the purchase the purchaser shall be obliged and bound to point out in clear terms or cause to be pointed out to the seller the house or place within the village where the produce or goods are to be off-loaded or delivered. If the purchaser does not accept the things purchased at the time of delivery, it shall be either off-loaded in the presence of competent witnesses or off-loaded at the market-house for account of the purchaser.

Delivery by seller.

Refusal to accept delivery.

18. The market master shall be entitled to refuse to sell if he has reasonable ground to suspect that what is brought to the market is not the property of the person who offers it for sale. The sale may however be effected upon condition that the proceeds shall remain for a fixed time in the hands of the market master or as may be considered desirable by the Landdrost.

Market master may refuse to sell suspected articles.

He shall in such case immediately give written notice to the Landdrost, who shall without delay institute the necessary enquiry.

19. The market master shall receive a fixed salary from the Government, and shall give security for the due fulfilment of his duties. He shall, over and above the salary, receive 2 per cent. of the market moneys.

Salary of market master and commission.

20. Tainted (bedorven) wares, or wares deleterious to health, diseased stock, or horses with glanders brought to the market, shall, upon complaint of the market master or any other person, be immediately removed from the market by the owner or person in charge thereof, and in the event of refusal or negligence, such person shall be punishable according to the provisions of this law.

Tainted foodstuffs and diseased animals to be removed.

21. All persons not being landowners bringing articles to the market, and specially firewood and lime, shall be obliged to exhibit a written permit from the owners of the

Sale of firewood and lime—permits by owner.

farms from which the said articles come, and upon non-compliance therewith those articles shall be declared forfeited.

Penalties.

22. The transgressor of one or more of the articles of these regulations shall be liable to a fine of not less than seven shillings and six pence up to seven pounds ten shillings sterling, to be imposed by the Landdrost according to the nature of the case, or, on non-payment, to imprisonment not exceeding one month.

When seller cannot deliver.

23. In case the purchaser shall not duly point out, in terms of article *seventeen*, to the seller, and the latter cannot find the purchaser, the seller shall be entitled to bring back the produce or goods sold and not received to the market-house; and if the purchaser shall not appear before 1 o'clock p.m., the market master shall receive the goods sold from the seller, and pay out the value of those goods to the seller. The latter shall then be entitled to off-load the produce or goods sold at the market-house for account and risk of the purchaser in presence of the market master or his lawful representative. In such case the market master shall again offer the goods for sale the first ensuing market, and the difference (if any) between the first and second sale and all damages and further costs thereby occasioned or connected therewith shall be made good by the first purchaser.

Re-sale at risk of purchaser.

24. All laws and provisions in conflict with this law are hereby repealed.

25. This law shall come into operation immediately after publication.\*

## VOLKSRAAD RESOLUTION, 11th May, 1888.

Art. 69.† The Raad having considered Government Minute dated 11th May, 1888, and Executive Council Resolution, article *two hundred and fifty-three*, dated 11th May, 1888, contained therein, resolves to agree with that Executive Council Resolution and to grant to the Government the authority asked for.

Authority of Government to sell erven.

The Executive Council Resolution reads as follows:—On the order: Minute R.4001/88, containing request by Mr. G. J. de Jager and thirty-one others, to have certain erven at Wakkerstroom publicly sold;

The Executive Council, recognising the desirability not only of this request but of many others of similar nature received by the Government from time to time from other towns; also

Resolves to ask the authority from the Hon. Volksraad to have erven in towns publicly sold according to circumstances, and where such might be required.

## VOLKSRAAD RESOLUTION, 12th May, 1888.

Art. 71.\* The Volksraad having considered Executive Council Resolution, article *two hundred and fifty-nine*, dated 12th May, 1888, now under discussion, resolves to grant to the Hon. Government the authority as asked for therein, as it hereby does, and therefor to have the Government erven at Pietpotgietersrust, or rather a certain number of same, occupied in terms of the Occupation Law.

Erven Pietpotgietersrust to be granted under Occupation Law.

## VOLKSRAAD RESOLUTION, 14th May, 1888.

Art. 85. The Volksraad having considered Executive Council Resolution, dated 4th April last, article *one hundred and eighty-nine*, resolves to approve of said Executive Council Resolution, and to instruct the Hon. Government to grant compensation to Messrs. C. Bezuidenhout and G. du Preez for labour done according to taxation as mentioned in the Executive Council Resolution;

Compensation to squatters for improvements on erven required for stands townships.

The Raad resolves further to authorise the Government to act in the same manner in other cases of similar nature.

The Executive Council Resolution reads as follows:—

On the order: Minute R. 6370/87, containing report of the Mining Commissioner at Marabastad, dated 21st November, 1887, as regards the two pieces of Government ground, situate in Zoutpansberg, selected for a stands township.

† A previous limited authority to sell erven given by V.R.R. 21st May, 1875, Art. 110, has been repealed by Trans. Proc. No. 34, 1901.

\* For regulations as to allotment, see Government Notice No. 176, 1890, in *Staatskoerant* 14th May, 1890; see Ord. No. 25, 1904; Government Notice No. 73, 1892 (Executive Council Resolution, 24th February, 1892, Art. 210—not published).

The Executive Council learning that said two pieces of Government ground are occupied by Messrs. C. Bezuidenhout and G. du Preez, in the hope of acquiring possession of those grounds in terms of the Occupation Law, and whereas the Government cannot now grant that ground to those burghers because it now requires that ground for a stands township, recognising however the equity of somewhat compensating those burghers for their labour performed on those grounds;

Resolves to propose to the Hon. Volksraad to award a reasonable compensation to those burghers, but, in the meantime, to immediately instruct the Landdrost to tax the labour performed together with the two Field Cornets, Messrs. Van Rensburg and A. P. Botha, and to make a report thereon to the Government in order to be able to decide thereon how much the compensation shall amount to.

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VOLKSRAAD RESOLUTION, 23rd May, 1888.

Compensation  
for farms  
required for  
locations.

Art. 189.\* The Raad having considered Executive Council Resolution, article *two hundred and eighty*, dated 23rd May, 1888, contained in the letter from the Government of even date, resolves to agree with the provisions of this Executive Council Resolution, and authorises the Government to act accordingly.

The Executive Council Resolution read as follows:—

On the order: Farms of the burghers which have fallen in the locations. The Executive Council having hitherto given equivalent ground for same or a reasonable sum of money, seeing that they now commence to claim unheard of sums for same, and taking cognisance of the Conventions in which it is provided that the amount to be given in compensation shall be decided by the Volksraad;

It is resolved to propose to the Volksraad to resolve to give as near as possible an equivalent piece of ground or a reasonable sum of money.

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VOLKSRAAD RESOLUTION, 29th May, 1888.

Grant of  
ground to  
churches.

Art. 267.† The Raad, having considered Executive Council Resolution, article *two hundred and ninety-one*, dated 28th May, 1888, resolves to approve of said Executive Council Resolution, and to authorise the Government to grant the piece of ground, Kaalbult, asked for, to the Nederd. Herv. of Geref. Gemeente, of Lichtenburg, or such other piece of ground as the Government may deem desirable, with regard and in proportion to the grounds already granted for the same purpose.

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\* Published in *Staatskoerant*, 6th June, 1888; see Volksraad Resolution, July, 1888, Artt. 922, 924, 926 (*infra*); Proclamation, 18th September, 1893 (not published); Transvaal Proclamation 5, 1902, sec. 2.

† See footnote to V.R.R. 14th June, 1887, Art. 540 (*supra*).

The Raad further resolves to authorise the Government, in case of other requests for ground for similar purposes, to grant ground in terms of Volksraad Resolution, article *five hundred and forty*, dated 14th June, 1887, provided they are made to the three Dutch Church communities who up to the present have obtained ground for said purposes.

VOLKSRAAD RESOLUTION, 8th June, 1888.

Art. 418. On the order came now' a petition of Cassem Ismail & Co., and Mamojee Amod & Co., and forty-six others, dated Johannesburg, 20th February, 1888, requesting not to be put on the same footing with Kaffirs as regards the prohibition to be about in the street after 9 o'clock in the evening.

"Curfew"  
prohibitions  
apply to  
Asiatics.

The recommendation of the Petition Committee read as follows:—

Your Committee cannot agree with the request of the petitioners, since provisions have already been made by which they have a privilege above the natives.

419. The Raad unanimously agreed to the recommendation of the Petition Commission.

VOLKSRAAD RESOLUTION, 9th June, 1888.

Art. 425.\* On the order: Two petitions, viz., by J. A. H. Tuin, J. P. Pretorius, and eight-one others, dated District Middelburg, 26th January, 1888, requesting a grant of 4 morgen arable land in addition to the lots of 8 morgen arable land already granted to them (V.R.R. 69/88), and by J. J. du Toit, H. J. du Preez, and seventy-eight others, dated District Middelburg, 16th January, 1888, requesting the right to buy two plots of ground in addition to the lot of 8 morgen already granted to them. (V.R.R. 70/88.)

Increase of  
size of occu-  
pation farms  
Mapochs  
gronden.

The recommendation of the Petition Commission read as follows:—

Your Commission agrees with the request of petitioners, and recommends to the Hon. Volksraad to authorise the Hon. Government to grant another 4 morgen to occupants on the Mapochs grounds in places where adjoining ground is still open, in addition to the ground already occupied by them, and under one and the same title-deed.

Art. 426. The Raad unanimously agreed to the recommendation.

VOLKSRAAD RESOLUTION, 5th July, 1888.

Art. 899.† The Raad, having considered Article IV of the report of the Estimates Commission now on the order, Volksraad Resolution, article *four hundred and fifteen*, 8th June, 1888; Volksraad Resolution, dated 9th May, 1888,

Asiatics not to  
reside in  
places of  
business out-  
side locations.

\* See Ordinance No. 25, 1904. These grants were made under V.R.R. 31st July, 1883, Art. 982, which is repealed by Trans. Proc. No. 34, 1901.

† See Law No. 3, 1885.

article *forty-one*†, having considered the object of Law No. 3, 1885, as amended by article *one thousand four hundred and nineteen*§ of the Volksraad Resolutions of the year 1886, and the instructions and provisions therein contained, the Raad being of opinion that it is in all respects in conflict with the existence of proper sanitary measures that the races referred to in Law No. 3, 1885, should be permitted to reside in places of business which are not situated in the locations; having good reasons to believe that this rule is not followed, and being of opinion that such is in conflict with the spirit and letter of the said law, resolves to instruct the Government to institute an enquiry into this matter, and, if possible, to prohibit residence in said places of business. The Raad further instructs the Government, should it appear to the latter after enquiry instituted to that end, that the further actions and mode of life of the said races are in conflict with the interests of the white population, especially in so far as the maintenance of the sanitary condition in the town is concerned then to take such steps to have the law amended in all necessary respects.

VOLKSRAAD RESOLUTION, 6th and 7th July, 1888.

Compensation  
for ground  
occupied by  
natives.

Art. 922.\*† Owners whose grounds have never before been occupied or inhabited by white persons and are occupied by natives with whom no lawful contract has been entered into according to law, have no claim to compensation or remuneration for the occupation thereof.

Art. 924.† Owners whose farms have formerly been occupied by white persons, but which the owners have left for sound and valid reasons, and which have been occupied by natives without contract or agreement, may only obtain compensation from such natives to an amount equal to that of the quitrent actually paid on such grounds, calculated from the time that the owners left such farms; the compensation to be made to those who have paid the taxes.

Art. 926.† Owners who wish to occupy their farms after date hereof, but expelled therefrom through the occupation by natives, shall from such time be entitled to compensation and damages, to be paid by such natives, until the Government shall enable them to take possession of the ground, such compensation to be fixed by a Commission appointed thereto by the Government subject to the approval of the Government.

† Repealed by Ord. No. 40, 1903, section *one*.

§ *Supra*.

\* Confirming Executive Council Resolution, 4th July, 1888, Art. 360 (*a*).

† Published in *Staatskoerant*, 1st August, 1888; see V.R.R. 23rd May, 1888, Art. 189 (*supra*); Trans. Proc. No. 5, 1902, section *two* (2).

**1889.**

**POLITICAL TREATY \***

**BETWEEN THE SOUTH AFRICAN REPUBLIC AND THE ORANGE FREE STATE.**

Convinced of the many ties of blood and of friendship which bind the people of the South African Republic to the people of the Orange Free State ;

Desiring to make common the interests of both countries and to bind both States closer to each other by a solemn Treaty ;

Desiring with that object to establish a federal union between both States ;

Recognising, however, that such a federal union cannot come into operation for some years ;

Animated with the wish to give at once already expression to the same sentiment and the same aspiration which cause the desire for a federal union ;

Have now already, in expectation of the establishment of such a union, agreed as follows :—

1. There shall be perpetual peace and amity between the South African Republic and the Orange Free State.

2. The South African Republic and the Orange Free State mutually pledge themselves and declare themselves prepared to support each other with all power and by all means should the independence of one of the two States be threatened or attacked from outside (van buiten) unless the State which should have to render the support shows the injustice of the cause of the other State.

Thus done and signed at Potchefstroom, this 9th day of March, 1889.

S. J. P. KRUGER,

State President of the South African Republic.

F. W. REITZ,

State President of the Orange Free State.

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\* Ratified by Volksraad Resolution of 2nd July, 1889, Art. 638. See Treaty of 1872 (*supra*).

## TREATY OF FRIENDSHIP AND COMMERCE

## BETWEEN THE SOUTH AFRICAN REPUBLIC AND THE ORANGE FREE STATE.\*

The South African Republic and the Orange Free State being mutually desirous to contract (*naauwer toe te halen*) and to strengthen the tie of common interest and mutual friendship which now so happily exists between both Republics, and at the same time to promote by all means within their reach the exchange of commerce between their burghers, have mutually agreed to conclude the following Treaty of Commerce and Friendship.

Article 1. An inviolable peace and perfect friendship shall exist between the South African Republic and the Orange Free State.

2. The burghers of the South African Republic and of the Orange Free State shall be mutually admitted on the same footing and shall be treated as the burghers of the State in which they shall happen to be (*waarin zij zich zullen bevinden*).

No higher taxation or more onerous obligations shall be imposed upon them than are imposed upon the burghers of the State where they live.

The above privileges shall, however, not be extended to the enjoyment of political rights.

3. Neither of both the contracting parties shall impose a higher or heavier tax upon the importations, exportation, or transit of the products of the soil, the industries and art of the other, than that which is exacted upon the products of its own burghers, provided the raw materials or chief ingredients of the products of industry are also the products of the other country.

It shall, however, be mutually agreed upon by the Governments which proof shall have to be adduced that such products are actually the products of the country which exports the same.

4. Applications for permits for the transit of war materials and firearms, for the use and benefit of the Government of one of both States, shall be made in writing, state the number or quantity of firearms, war materials, etc., for which transit is requested, and be signed by the President of the State which desires such transit, whereupon the President of the State from whom such permit is requested shall grant the same without levy of payment of any import or stamp dues on same; this shall not extend to the ammunition and firearms of the general trade.

5. The freedom of trade expressed in this Treaty shall not extend to contraband articles, ammunition and firearms with the natives, explosive materials, and all articles in respect of which a general prohibition of importation or a State monopoly exists.

6. No transit dues shall be levied upon the goods which are conveyed through the territory of one of the contracting parties to or from the territory of the other.

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\* Ratified by Volksraad Resolution, 2nd July, 1889, Art. 640.

It shall, however, be mutually agreed upon by the Governments as to the manner in which control shall be effected upon such transit.

7. This Treaty shall be of force from the date of the exchange of ratifications until six months after notice by one of both parties.

8. This Treaty shall on both sides be submitted to the approval and ratification of the respective Volksraads at their next ordinary sessions.

These ratifications shall be exchanged as soon as possible.

In witness whereof the State President of both sides, under reservation of the ratifications aforesaid, have signed this Treaty. Thus done at Potchefstroom, the 9th March, 1889.

S. J. P. KRUGER,

State President of the South African Republic.

F. W. REITZ,

State President of the Orange Free State.

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*Protocol.\**

On the occasion of the signing of the above Treaty of Commerce and Friendship between the South African Republic and the Orange Free State the following declaration has been made by both sides :—

1. It is stipulated (het staat vast) that each of both contracting parties reserves to itself the right (bevoegdheid) to remove from its territory the subjects of the other State which may not conduct themselves in accordance with the laws of the country.

2. It is further expressly understood that article *two* of the Treaty is subject to local provisions of the respective parties in respect of jurisdiction and administration of justice.

3. It is stipulated that each of the contracting parties reserves to itself the right (bevoegdheid) to levy import dues upon such articles for the manufacture of which monopoly or a protective duty has been or shall be granted by such party. The other party obtains by the levy of such import dues the same right (bevoegdheid) in respect of the same articles.

S. J. P. KRUGER,

State President of the South African Republic.

F. W. REITZ,

State President of the Orange Free State.

Potchefstroom, 9th March, 1889.

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\* Ratified by Volksraad Resolution, 2nd July, 1889, Art. 640.

## LAW No. 6, 1889.\*

## AGAINST GAMES OF CHANCE.

(Approved and enacted by Resolution of the Hon. Volksraad,  
Article 304, dated 31st May, 1889.)

Preamble.

Whereas it is necessary in the interest of public morality that the keeping and visiting of gambling houses and gaming tables, and gambling itself be prevented and suppressed in this Republic; it is hereby provided and enacted as follows:—

It is unlawful to keep gaming house.

1. It shall be unlawful to keep or visit a gambling house or gaming table within the South African Republic.

Right to enter and search houses, etc.

2. It shall be lawful for every Public Prosecutor, Justice of the Peace, Field Cornet, Assistant Field Cornet, or white constable, or every person duly authorised under signature of the Public Prosecutor, with such assistance as he shall deem necessary, at all times to enter and search every house, tent, room, vehicle, or other place of meeting, of which they have good reasons to believe that it is a gambling house, and if, upon request to be admitted made by such Public Prosecutor, Justice of the Peace, Field Cornet, Assistant Field Cornet, or constable or other person authorised as above, stating his name, office, and reasons why he wishes to be admitted into such house or such place, such house or other place is not forthwith opened, then such officer or constable shall be entitled to break open such house or other place or cause it to be broken open and to enter by force and search the same, and the owner or occupier of such house or other place who, for whatever reason, shall not open or shall refuse to open such house or other place, upon request made in the manner prescribed by such officers or constable or other persons authorised as aforesaid, may upon conviction be punished by a fine not exceeding £100 or imprisonment with or without hard labour for a period not longer than six months over and above every other punishment which such person may have to undergo as is hereafter provided.

Penalties for refusing to open.

What is a gambling house or gaming table

3. Every house, tent, room, vehicle, or other place of meeting shall be deemed to be a gambling house in which, and every object shall be deemed to be a gaming table on which gaming appliances may be found, or wherein or whereon it shall appear that a bank is kept, that is to say, in which or whereon the players stake money against the money of the occupier or owner of the house or the table or against money supplied by any person, bank, or firm or mutual association as a fund or capital for the purpose of gambling, or wherein or whereon rouge et noir, roulette, fano, or any other game is being played, by which the owner or occupier of the house or the table or any person, or bank or firm, or partnership with shares, stakes money against the money of the players.

\* See also Ordinance 1, 1903, sections 216-218.

4. Every holder of a gambling house, whether as owner, holder, attendant, or in any other capacity whatsoever; every person charged with the supervision or the direction of the play, or acting as banker, dealer, croupier, or anything else, and every person acting as porter, doorkeeper, or servant, or filling any other office in any gambling house, or at any gaming table, shall be deemed and held to be the keeper of a gambling house or gaming table.

Who is deemed to be a keeper of a gambling house or gaming table.

5. Every person found in a gambling house or at a gaming table, who is not the holder of a gambling house or gaming table, shall be deemed and taken to be visiting a gambling house or gaming table with the object of gambling.

Visitors.

6. It shall be lawful for the police or for such persons duly authorised thereto by the Landdrost of any district or the Special Landdrost, Assistant Landdrost, or Mining Commissioner of any public digging\* to arrest, without warrant, all persons, whomsoever, found in any gambling house or at any gaming table, and to seize all cards, dice, or other gambling requisites and moneys found in any gambling house or on any gaming table.

Powers of arrest and seizure.

7. Every person of whom it is proved that he keeps a gambling house or a gaming table shall be punished for the first offence by forfeiture of all moneys, gaming tables, implements, and appliances found in such gambling house or in the possession of any keeper thereof, *besides a fine of not less than £5, and not more than £50, according to the nature of the case, or on non-payment of the fine, imprisonment not exceeding three months, with or without hard labour;*† for the second offence by imprisonment with hard labour for not less than three or more than twelve months, in addition to the forfeiture hereinabove described; for a third or subsequent offence by imprisonment for three years with hard labour in addition to the forfeiture hereinabove described.

Penalties against keeper of gambling house.

7a.‡ *Any person who by fraud or an illegal design, pretext, artifice of whatsoever kind, by playing with cards, dice, tables, or any other game, shall win money or any article of value from any person or persons, or any person who shall in any way conspire to induce another person or persons to play, in order by so doing to win their money or articles of value, by any kind of illegal game shall be deemed to have committed the crime of obtaining money or goods under false pretences, and shall be sentenced, for the first offence, up to three months' imprisonment with hard labour; for the second offence to six months' imprisonment with hard labour; and for the third offence to two years' imprisonment with hard labour. With this proviso, that it shall always be open to the State Attorney or his lawful representative to accept the person who has lost, or one or more of the*

Persons winning money by illegal gaming guilty of obtaining money by false pretences.

\* Words have been inserted here by Law 7, 1894, Art. 15, which law has been repealed by Ordinance 19, 1904, sec. 1.

† The words in italics were substituted by Law 1, 1892, Art. 1.

‡ This article was added by Law 1, 1892, Art. 2.

*accomplices, as State evidence, in terms of article one hundred and twenty of the Criminal Procedure, § although they may have joined in the play.*

Court decides whether game is one of chance or stakes excessive.

7b. || *It shall be clearly understood that it shall, in every case, be left to the competent courts to decide whether the game, with reference to which the charge is laid, is a game of chance or one decided by science or skill, and when it shall appear that a game of science or skill is played in such a manner that what is played for is unreasonably high, the Court shall declare such playing illegal and deem the same in all respects to be a game of chance for the purpose of this law.*

Penalties on visitors of gambling houses.

8. Any person of whom it is proved that he visits a gambling house or gaming table with the object of gambling shall be liable to the following fines:—For the first time, £5, or, on non-payment, one week's imprisonment; for the second offence a fine of £10, and, on non-payment, two weeks' imprisonment; for a third or subsequent offence a fine of £20, and, on non-payment, imprisonment for six weeks with or without hard labour.

9. ¶ *Superseded by Law No. 1, 1892, article three.*

Jurisdiction of Landdrosts, etc.

10. The Landdrosts, Special Landdrosts, or, where such are appointed, the Assistant Landdrosts and the Mining Commissioners on those public diggings where no special Landdrosts have been appointed, shall in their respective districts or public diggings have special jurisdiction in all cases under this law.

Informers receive half fines, etc.

11. Every person who gives such information as shall lead to conviction and to the infliction of any forfeiture or fine under the provisions of this law, shall be entitled to receive the half of the moneys forfeited or fines inflicted and received.

12. This law shall come into operation immediately after publication in the *Staatskoerant*.\*

§ See now Tr. Pr. 16, 1902, section 8.

|| This article was added by Law 1, 1892, Art. 2.

¶ An Art. 9 (a) was added by Law 1, 1892 Art. 4; both Articles 3 and 4 of Law 1, 1892, have been repealed by Ord. 32, 1902, section 1.

\* Published in *Staatskoerant* of 12th June, 1889.

## LAW No. 7, 1889.

## ON THE MAKING AND MAINTENANCE OF ROADS.

(Approved and enacted by Resolution of the Hon. Volksraad, Article 485, dated 21st June, 1889.)

1. The Government has the right to take or cause to be taken from every farm or piece of ground the necessary stones, ground, and gravel for the making and maintaining of the roads within the limits of such farm or piece of ground. Right of Government to take materials for road repairs.
  2. In case a farm or piece of ground does not contain a sufficient supply of materials, the Government shall be entitled to have the same conveyed from any adjoining or any other farm on which the same shall be sufficiently obtainable. Also from adjoining farm.
  3. The owner or occupier of a farm or piece of ground shall have the right to point out a place from which the materials mentioned in articles *one* and *two* shall be taken, provided such place is equally suitable, and also in so far as possible as regards distance as that which has been selected by or on behalf of the Government. In the event of dispute, the nearest (naastbijwonende) official who is not concerned in the case, and two impartial persons to be selected by him, shall decide. Owner may point out place.  
  
Disputes.
  4. The Government shall not be entitled to take possession of any material on which the owner has expended manual labour, save in exceptional cases, and then against reasonable compensation, to be previously fixed by mutual agreement with the owner or lessee. If material already detached—compensation.
- In the event of a difference of opinion in such case between the owner or lessee and the Government, the compensation shall be fixed by valuation of arbitrators.
5. The Government shall, however, in no case have the right to remove stones from house, kraal, or boundary walls. Arbitration in case of difference.  
  
House, kraal, walls exempt.
  6. Every person who wrongfully prevents, obstructs, or opposes the making, repairing, or maintaining of ways or roads by refusing materials or otherwise, shall be responsible for all costs which may arise therefrom. Penalty for obstructing repairs, etc.
  7. This law shall come into operation immediately after publication in the *Staatskoerant*.\*

\* Published in *Staatskoerant* of 26th June, 1889. See Second Volksraad Resolution, 11th May, 1891, Art. 38 (*infra*).

## VOLKSRAAD RESOLUTION, 8th May, 1889.

Ill-treatment  
of animals.

Art. 44.† The Raad having considered Executive Council Resolution, article *thirty-seven*, dated 24th January, 1889, now on the order, resolves to approve of the said Executive Council Resolution,‡ with the addition: That it shall be the duty of all officials as also police, to maintain the law, and that all private persons reporting ill-treatment shall receive one-third of the fine.

The Executive Council Resolution read as follows:—

On the order: Minute R. 443/87, containing correspondence with reference to the law against the ill-treatment of animals.

The Executive Council recognising the desirability of taking measures for the proper carrying out of this law, and having taken cognizance of extract Volksraad Resolution, article *two hundred and eighty-one*, dated 20th May, 1889;

Law to be  
enforced  
vigorously.

Resolves to specially direct the attention of Field Cornets and Assistant Field Cornets in the various towns and wards to the provisions of this law, and to instruct them to enforce the same vigorously, whilst it is further provided that every person who reports any contravention of this law to the proper authorities and causes a conviction to be obtained, shall receive one-third of the eventual fine if such fine be paid and the application for such one-third be made within one month after the date of the infliction of the fine.

Informers  
receive one-  
third of fine.

## VOLKSRAAD RESOLUTION, 14th June, 1889.

Claimants of  
Ohrigstad  
erven to file  
claims within  
six months.

Art. 419.\*† The Raad having considered Executive Council Resolution, dated 29th May, 1889, article *three hundred and two*, resolves to accord its approval to said Executive Council Resolution under the following provisions:—

On pain of  
forfeiture.

(a) That a calling up (oproeping) shall take place for the period of six months, within which period all private persons shall prove their rights to erven in the old town, Ohrigstad, after which date all claims shall be declared lapsed.

Town to be  
surveyed.

(b) After which date the Hon. Government shall have said town surveyed in erven and sell the same by public auction.

Grounds not  
required for  
commonage  
to be leased.

(c) To cause the other adjoining grounds not required for town commonage to be surveyed, and to lease same in accordance with Volksraad Resolution, dated 22nd July, 1885, article *nine hundred and fifty-one*.§

† Published in *Staatskoerant* of 10th July, 1889.

‡ Published by Government Notice No. 33, 1889.

\* See F.V.R.R. 3rd September, 1895, Art. 1091 (*infra*).

|| Published in *Staatskoerant* of 10th July, 1889.

§ Repealed by Trans. Proc. 34, 1901.

The Executive Council Resolution read as follows:—

On the order: Minute R. 3920/89, containing request by J. A. Erasmus for the lease of the old town of Ohrigstad;

Resolved to propose to the Hon. Volksraad to authorise the Government to have the commonage of Ohrigstad and the adjoining disposable Government ground surveyed in lots, and to lease same for twenty-one years, with instructions to compensate the eventual rights of private persons to the former erven of Ohrigstad, or to let them retain same, the Government to have the right to fix a certain period within which the persons who lay claims shall apply, and on expiration whereof no claims shall any longer be taken into consideration.

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VOLKSRAAD RESOLUTION, 24th June, 1889.

Art. 510.\* A petition by D. H. van der Merwe and others, A. C. Teesen and fifty-one others, dated Rustenburg, 2nd May, 1889, was now put on the order, requesting that the market should be separated into two divisions, one for whites and one for coloured persons, the report of the Petition Commission read as follows:—

Market to be separated into two divisions, for whites and natives.

“Your Commission recognises the necessity to make provision in this matter, and recommends to the Hon. Volksraad to instruct the Hon. Government to appoint separate portions of the markets for coloured persons.”

The recommendation was unanimously accepted.

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VOLKSRAAD RESOLUTION, 27th June, 1889.

Art. 561. On the order: The following petitions: . . . all containing the request that it be prohibited to Kaffirs and Coolies to live within Johannesburg.

Kaffirs and coolies may not live within Johannesburg.

The report of the Petition Commission read as follows:—

“Your Commission agrees with petitioners, and recommends to the Hon. Volksraad to instruct the Government to act in accordance with Law No. 3, 1885.”

The Raad unanimously agreed with this report.

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VOLKSRAAD RESOLUTION, 29th July, 1889.

Art. 1209.† The Raad unanimously approved of the Executive Council Resolution.

Said Executive Council Resolution is the one of 27th July, 1889, article *four hundred and sixty-three*, reading as follows:—

Travelling expenses of sheriffs in *pro Deo* cases.

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\* Reaffirmed by F.V.R.R., 4th September, 1894, Art. 1577 (not published), which resolution also instructs the Government to immediately carry out this provision.

† Published in *Staatskoerant* of 7th August, 1889.

On the order: Minute R. 6082/89, containing correspondence *re pro Deo* cases.

The Executive Council, having considered the recommendation of the Hon. the Chief Justice that the Government should compensate the travelling expenses of deputy sheriffs where personal service is ordered in *pro Deo* cases, recognising the equity thereof;

Resolves to propose to the Hon. Volksraad to agree with said recommendation.

**1890.**

## A CONVENTION †

BETWEEN THE SOUTH AFRICAN REPUBLIC AND HER MAJESTY  
THE QUEEN OF THE UNITED KINGDOM OF GREAT BRITAIN  
AND IRELAND.

Whereas His Honour the State President of the South African Republic, as representing the Government of the said Republic and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, have agreed that it is expedient that they should enter into a Convention relative to the settlement of the affairs of Swaziland and with regard to other matters of importance connected with the affairs of South Africa ;

Now, therefore, His Honour the State President of the South African Republic, as representing the Government of the said Republic and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, do hereby consent and agree that the following Articles, accepted finally by and between His Honour and Her Majesty, shall, when duly signed, sealed, and executed by His Honour the State President of the South African Republic on behalf of the Government of the said Republic and by Her Majesty's High Commissioner for South Africa on behalf of Her Majesty, and when duly ratified by the Volksraad of the South African Republic, shall constitute and be a Convention by and between the South African Republic and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland.

Article 1. The independence of the Swazis, as recognised by the Convention of London of 1884, is affirmed, and no inroad on that independence shall be allowed, even with the consent of the Swazi Government, without the consent of both the Government of the South African Republic and Her Majesty's Government.

2. With the consent of the Swazi Government expressed in the form of an organic Proclamation, by the Queen Regent and Council, the powers and authorities of the Provisional Government Committee, conferred by Proclamation dated 18th December, 1889, and extended by subsequent Proclamation for a further period, to be continued for an indefinite period, subject to the following alterations and additions, and to the establishment of the following constitution and machinery of Government :

(a) Each of the three Governments, the Government of the South African Republic, Her Majesty's Government and the Swazi Government, to have power from time to time to cancel the appointment of its nominated representative in the Government Committee, and to appoint another representative in his stead.

(b) A Government Secretary and Treasurer to be appointed by the Government Committee upon the joint nomination of State President of the South African Republic and Her

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† See Convention of 1893 (*infra*).

Majesty's High Commissioner, such officer to furnish periodical reports to the State President of the South African Republic, and Her Majesty's High Commissioner and to communicate officially with them by instruction from the Government Committee upon matters relating to the affairs of Swaziland.

(c) A Chief Court to be established composed of three judicial members approved of by the State President of the South African Republic and Her Majesty's High Commissioner, or of only one member, if the State President of the South African Republic and Her Majesty's High Commissioner should deem one member sufficient, and approve such member.

(d) Such court to have full power and jurisdiction over all persons of European birth or extraction in Swaziland and over all questions, matters and things in which any such persons are concerned, with full power to decree against all persons execution by all forms of legal or equitable procedure, approved by the State President of the South African Republic and Her Majesty's High Commissioner, of every order, judgment, decree or sentence made by it in exercise of its jurisdiction.

(e) All subordinate judicial appointments, whether of Magistrates, Justices of the Peace, or the like, and all appointments of Police officers to be made by the Government Committee, the persons appointed to be previously approved of by the State President of the South African Republic and Her Majesty's High Commissioner.

(f) The jurisdiction conferred upon such subordinate judicial officers to be such as shall be approved by the State President of the South African Republic and Her Majesty's High Commissioner.

(g) The laws to be administered by all Courts of Justice to be the Roman Dutch Law as in force in South Africa, but subject to such alterations, additions, or amendments as may be made by Proclamation of the Government Committee of any laws, rules or regulations approved of by the State President of the South African Republic and Her Majesty's High Commissioner, without whose joint consent no law, rule or regulation shall be proclaimed by the Government Committee, or if proclaimed be binding; provided that laws enacted during the period of power of the Provisional Government Committee shall continue in force until altered, amended or repealed by some law, rule or regulation proclaimed after approval as aforesaid.

(h) The Chief Court to undertake judicial inquiry into the validity of disputed concessions, so soon as the Swazi Government shall have framed and proclaimed a list of those concessions, which it approves of; such inquiry to be conducted in accordance with such laws, rules and regulations as aforesaid.

(i) The administrative and executive powers under such organic Proclamation as aforesaid to be vested in the Government Committee, but no powers or jurisdiction to be claimed or exercised by the Government Committee or any judicial tribunal in respect of any question, matter or thing in which Swazi natives alone are concerned.

(j) All lawfully acquired rights vested in any person to be recognised by the Government Committee, and all judicial tribunals subject to such laws, rules and regulations as aforesaid.

(k) The revenue from sources approved by the Proclamation of the 18th December, 1889, to be collected by officers appointed by the Government Committee, and to be by such officers paid over to the Government Treasurer, subject to such rules and regulations as to accounts and audit as shall be approved of by the State President of the South African Republic and Her Majesty's High Commissioner, provided that no revenue shall be derived from any source not lawfully recognised at the date of the organic Proclamation, unless and until a Proclamation establishing such source of revenue shall have been published in Swaziland by the Government Committee with the consent and approval of the State President of the South African Republic and Her Majesty's High Commissioner.

3. The Government of the South African Republic and Her Majesty's Government mutually guarantee that they will enforce the due observance by the Swazi Government and the Swazis of the provisions of the organic Proclamation aforesaid, and of good and orderly government established thereunder, but no step shall be taken, and no act be done by either Government to compel such due observance by force without the approval of the other, which approval shall be deemed to be given if no objection to any such step or act shall be communicated to the Government, giving notice of intention to take such step or do such act within two weeks from the date of such notice; provided that either of the said Governments may, upon application by the aforesaid Government Committee, interfere by force in any urgent case to compel such due observance as aforesaid; and provided that in case of such interference being applied for, the other Government may act upon such application.

4. In all courts of justice in Swaziland and in all official communications of the Government Committee, the Dutch and English languages shall have equal rights.

5. Saving all existing rights, the sovereignty and ownership of the Swazi nation in respect of all land within the boundaries of Swaziland shall be recognised and respected, but no disposition of any such land or of any right in respect of such land, and no grant or concession whereby any privileged or exclusive right is granted or conceded, or any right directly or indirectly interfering with the powers and jurisdiction of the Government Committee shall after the date of such organic Proclamation be recognised

as of any legal validity, unless it shall be made with the approval of the State President of the South African Republic and Her Majesty's High Commissioner.

6. The control and management by the Swazi Government of all affairs in which natives only are concerned shall remain unaffected by such organic Proclamation as aforesaid, and shall be regulated according to native laws and customs, save in so far as by such laws and customs any danger may arise affecting good and orderly government under the provisions of the organic Proclamation aforesaid.

7. Her Majesty's Government recognises the validity of the concessions over and in respect of which the Government of the South African Republic possesses controlling power with respect to postal and telegraphic services, with respect to the construction of railways in Swaziland and the keeping of refreshment places thereon, and with respect to the making and navigation of waterways and to land surveying.

8. Her Majesty further consents to the acquisition by the South African Republic, under and by virtue of a Treaty with the Queen Regent of the Swazis and her Council, of the ownership of land in Swaziland, for the purpose of construction of a railway across Swaziland from the border of the South African Republic, the extent of such land to be three miles in width at the most, provided that

(a) the sovereignty over land so acquired shall not be deemed to be acquired by the South African Republic, but such land shall in like manner with any other part of Swaziland remain under the Government and administration of the Government Committee referred to in this Convention; and

(b) Her Majesty shall, if occasion require, have the right of passage across such railway and land so acquired.

9. Any deficiency on the revenue for the Government of Swaziland under the organic Proclamation, shall, when duly certified according to the rules aforesaid, as to accounting and audit, be borne in equal share annually by the Government of the South African Republic and Her Majesty's Government, and any surplus shall be carried over to the account of the next succeeding year.

10. The Government of the South African Republic withdraws all claim to extend the territory of the Republic, or to enter into Treaties with any natives or native tribes to the north or north-west of the existing boundary of the Republic, and undertakes to aid and support by its favouring influence the establishment of order and government in those territories by the British South African Company within the limits of power and territory set forth in the Charter granted by Her Majesty to the said Company.

11. Notwithstanding anything to the contrary contained in the Convention of London of 1884, Her Majesty's Government approves of the acquisition by the Government of the South African Republic of rights under treaty with the Chieftain

Umbegesa and the Queen Zambili of Amatongaland, over a strip of land not exceeding three miles in width, north of the 27th parallel of south latitude, for the construction of a railway or other purposes between frontier of Swaziland and the sea coast at or near Kosi Bay, provided that Her Majesty's Government undertakes to use its influence to obtain a concession to the South African Republic of an area of ten miles in radius from a point to be mutually agreed upon situate on the coast of Amatongaland, which area of land shall be deemed to be and to form portion of the Territory of the South African Republic.

12. Her Majesty the Queen of the United Kingdom of Great Britain and Ireland agrees to recognise the sovereignty of the South African Republic in respect of

(a) the land acquired as aforesaid by such Treaties as are in the last preceding article contemplated with the Chieftain Umbegesa and the Queen Zambili of Amatongaland, for the purposes therein referred to ;

(b) so much land, connected with the land acquired from the said Chieftain as aforesaid for the purposes aforesaid, as may be acquired for the purposes of the navigation of the Pongola River by the South African Republic by Treaty with the said Chieftain, as may not exceed in area an extent of four miles as the crow flies in radius from some point within the territory of the said Chieftain and on the Pongola River ; and

(c) a strip of land for constructing a line of railway or other purposes, which strip of land may be acquired by a Treaty or Treaties with the Chieftains Zambaan and Umbegesa, and shall not exceed three miles in breadth, running lengthwise, either from Nyawos Hill, along the frontier of Swaziland, or from a point south of that hill along the Pongola River to a point north of the 27th parallel of south latitude, where such strip of land would cut across the strip of land referred to in the last preceding article.

13. If by any such Treaty as is referred to in article *twelve* hereof, the right of navigation of the Pongola River is conceded by the Chieftain Umbegesa to the South African Republic, Her Majesty's subjects, and all ships, vessels or other craft used in the navigation of the said river, and owned in whole or in part by any of Her Majesty's subjects, shall be entitled by such Treaty and by this Convention, to the free navigation of the said river without obstruction from, and without the imposition of, any duties or charges by the Government of the South African Republic, or by any person or company holding rights protected by or derived from the said Government, other or higher than such lowest duties or charges as shall be imposed upon any person, or upon any ship, vessel or other craft as aforesaid, not owned as aforesaid by any of Her Majesty's subjects.

14. In the event of the Government of the South African Republic acquiring rights by Treaty to land for the construction of either or both the lines of railway, or for other purposes as referred to in articles *eleven* and *twelve* of this Convention, and

notwithstanding the acquisition by the South African Republic of sovereignty in terms of this Convention, in respect of any land under and by virtue of any approved Treaty with the Chieftain Zambaan, the Chieftain Umbegeza, or the Queen Zambili of Amatongaland, Her Majesty reserves the right of passage across such lines of railway and all land so acquired by the South African Republic, at places to be mutually agreed upon, the further right to claim convenient facilities for crossing each of the said lines and the said land with one line of railway at the same places or others conveniently situated and the right, at any place across either strip of land acquired under paragraph (c) of article *twelve*, of passing troops if necessary into Swaziland in accordance with this Convention.

15. No treaty entered into in manner recognised by this Convention with the Chieftain Zambaan, the Chieftain Umbegeza, or the Queen Zambili of Amatongaland shall be deemed to be valid and binding until approved of by Her Majesty, in manner provided by article *four* of the London Convention of 1884.

16. The Government of the South African Republic will in no case, without the approval of Her Majesty's Government, part with the sovereignty, control, or management of Kosi Bay or the harbour works in connection therewith, or the area of land hereinbefore referred to ; and will not without the like approval enter into any Treaty relating to Kosi Bay or the said works or area with any Foreign Power.

17. Should any dispute arise between the Government of the South African Republic and any Foreign Power relative to any act, omission, or alleged default on the part of the said Government in the exercise of its sovereignty in respect of Kosi Bay or the said works or area, the said Government, for the sake of protecting the sovereignty of the South African Republic with regard to the said bay, works and area, consents to assign to Her Majesty's Government the conduct on behalf of the Government of the South African Republic, of all diplomatic representations and negotiations with such Foreign Power relative to such dispute, such representations to be made and negotiations to be carried on in consultation with the Government of the South African Republic.

18. The provisions of article *sixteen* of this Convention shall be construed so as to refer not only to Kosi Bay, the harbour works in connection therewith, and the area of land referred to in the said article, but also to any other land the sovereignty in respect of which shall be acquired by the South African Republic, in terms of this Convention, under and by virtue of any Treaty entered into with the Chieftain Zambaan, the Chieftain Umbegeza, or the Queen Zambili of Amatongaland, and approved of by Her Majesty as aforesaid.

19. The Government of the South African Republic consents, in the event of acquisition by it of Kosi Bay as aforesaid, and of sovereign rights over the area of land referred to in article *eleven* and over the land referred to in article *twelve*, to enter with Her Majesty's Colony of the Cape of Good Hope and the Orange Free

State, and with such other Colonies or Dependencies of Her Majesty as may then be parties thereto, into the then existing Customs Union Convention ; provided that terms and conditions of entrance are conceded with due regard to the existing contracts and to the existing treaties recognised by Her Majesty's Government, by which the Government of the South African Republic is bound.

20. Notwithstanding anything to the contrary contained in any of the preceding articles of this Convention, and notwithstanding that any Treaty entered into by the South African Republic with the Chieftain Zambaan, the Chieftain Umbegesa, or the Queen Zambili of Amatongaland, shall have been approved of by Her Majesty in manner provided in this Convention, such approval shall be deemed to be conditional upon the entering of the South African Republic into the said Customs Union Convention, and none of the rights or powers conferred by any such Treaty may be validly claimed or exercised by the Government of the South African Republic unless, within six months after the date of Her Majesty's approval in respect of the first of any such Treaties entered into as aforesaid, copy whereof shall be received by Her Majesty's Government in accordance with article *four* of the London Convention of 1884 the Government of the South African Republic shall have entered into the said Customs Union Convention upon terms and conditions agreed upon by and between the said Government and the respective Governments of the Colonies, States, or Territories then parties to the said Convention.

21. If before the expiration of three years from the 8th day of August, 1890, either

(a) the Government of the South African Republic shall not have entered into such Treaties as aforesaid with the Chieftain Zambaan, the Chieftain Umbegesa, and the Queen Zambili of Tongaland, or their respective successors ; or

(b) such Treaties, if entered into, shall not have been approved of by Her Majesty, in manner provided in this Convention ; or

(c) though such Treaties shall have been entered into and approved of, the Government of the South African Republic shall not have entered into the Customs Union Convention in accordance with articles *nineteen* and *twenty*.

Each party to this Convention shall have the option, at any time before 8th day of May, 1893, of giving notice in writing to the other party that at the expiration of the period of three years aforesaid, the force and effect of this Convention shall terminate ; provided that

(1) such termination shall not bind Her Majesty to recognise as valid any such Treaties as aforesaid, notwithstanding that the same shall have been approved of ;

(2) such termination shall not affect the binding force and effect of articles *ten* and *twenty-four* of this Convention.

22. The Government of the South African Republic agrees to admit free of any duties of Customs into the South African Republic all articles the produce and manufacture of any State,

Colony, or Territory bordering on the territory of the South African Republic, into which the produce and manufactures of the South African Republic are admitted free of such duties, subject for such period as it may be a party to the Customs Union Convention to such exceptions as may be thereby prescribed.

23. The Government of the South African Republic undertakes to withdraw all opposition, direct or indirect, to the extension of railways from or through any of Her Majesty's Colonies in South Africa or the Orange Free State to or towards the boundaries of the South African Republic, and further to take into consideration the extension of such railways, subject to all existing rights and Treaties, from the said boundaries into the territory of the South African Republic to the townships of Johannesburg and Pretoria.

24. Her Majesty's Government consents to an alteration of the boundary of the South African Republic on the east, so as to include the territory known as the Little Free State within the territory of the South African Republic.

25. This Convention will be ratified\* by the Volksraad of the South African Republic on or before the 8th day of August, 1890, and in default of such ratification this Convention shall be null and void.

Signed and sealed at Pretoria, this 2nd day of August, 1890.

(Signed) S. J. P. KRUGER,  
State President of the South African Republic.

(Signed) Dr. W. J. LEYDS,  
State Secretary of the South African Republic.

Signed and sealed at Capetown, this 14th day of August, 1890.

(Signed) HENRY B. LOCH,  
High Commissioner.

Signed at Pretoria, this 2nd day of August, 1890.

(Signed) J. H. HOFMEYER,  
Her Britannic Majesty's Special Agent.

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\* Ratified by V.R.R. 7th August, 1890, Art. 1204.

## ORGANIC PROCLAMATION†

By us Umgwane, otherwise U'Hili, otherwise U'Bunu, King of the Swazie Nation, acting by and with the consent of our Headmen and Councillors, in Council assembled at our Royal Kraal of Somboti.

Whereas on the 18th day of December, 1889, Usibati, then and lately the Queen Regent of the Swazie Nation, acting by and with the consent of her Headmen and Councillors in Council assembled at Her Royal Kraal of Enkanini, did by Proclamation under her hand, make certain provisions for the maintenance of law, order, and government, in respect of matters in which white persons were, and might be concerned in Swazieland, after the termination of the stay in Swazieland of certain Commissioners therein named, then representing the Government of Her Majesty Queen Victoria, and the Government of the South African Republic;

And whereas under and by virtue of the aforesaid Proclamation, a certain Provisional Government Committee was constituted, with the powers and authorities in the said Proclamation set forth;

And whereas the period for the exercise by the said Provisional Government Committee of the aforesaid powers and authorities has been by subsequent lawful Proclamations extended, and will expire on the 18th day of September, 1890;

And whereas it is expedient to make provision for the exercise on and after the said 18th day of September, 1890, by a Government Committee for an indefinite period, of the powers and authorities aforesaid, subject to the alterations and additions, and to the establishment of the constitution and machinery of Government hereinafter set forth;

We do, therefore, hereby proclaim, declare, and make known unto all men as follows:—

1. On and after the 18th day of September, 1890, there shall be constituted in Swazieland a Government Committee, composed of three representatives, of European birth or extraction, nominated one by ourselves, who shall be Chairman, one by the Government of Her Majesty Queen Victoria, and one by the Government of the South African Republic, which Committee shall by majority of votes exercise and fulfil the powers, authorities, and functions hereby conferred upon them in conformity with the provisions of this Proclamation.

2. Each of the three Governments, ourselves, Her Majesty's Government, and the Government of the South African Republic, shall have power from time to time to

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† See Convention of 1890 (*supra*); see Supplement (*infra*).

cancel the appointment of its nominated representatives in the Government Committee, and to appoint another representative in his stead.

3. A Government Secretary and Treasurer shall be appointed by the Government Committee upon the joint nomination of Her Majesty's High Commissioner and the State President of the South African Republic, and such officer shall furnish periodical reports to Her Majesty's High Commissioner and the State President of the South African Republic, and shall communicate officially with them by instruction from the Government Committee upon matters relating to affairs of Swazieland.

4. A Chief Court shall be established composed of three judicial members approved of by Her Majesty's High Commissioner and State President of the South African Republic, or of only one member, if Her Majesty's High Commissioner and the State President of the South African Republic should deem one member sufficient, and approve such member.

5. Such Court shall have full power and jurisdiction over all persons of European birth or extraction in Swazieland, and over all questions matters and things in which any such persons are concerned, with full power to decree against all persons execution by all forms of legal or equitable procedure, approved by Her Majesty's High Commissioner and the State President of the South African Republic, of every order, judgment, decree, or sentence made in it by the exercise of its jurisdiction.

6. All subordinate judicial appointments, whether of Magistrates, Justices of the Peace, or the like, and all appointments of Police Officers shall be made by the Government Committee, and the persons appointed shall be previously approved of by Her Majesty's High Commissioner and the State President of the South African Republic.

7. The jurisdiction conferred upon such subordinate judicial officers shall be such as shall be approved by Her Majesty's High Commissioner and the State President of the South African Republic.

8. The laws to be administered by all Courts of Justice shall be established under this Proclamation, to be the Roman-Dutch Law as in force in South Africa, but subject to such alterations, additions or amendments as may be made by Proclamation of the Government Committee of any laws, rules or regulations approved of by Her Majesty's High Commissioner and the State President of the South African Republic, without whose joint consent no law, rule or regulation shall be proclaimed by the Government Committee, or if proclaimed be binding; providing that laws or regulations enacted during the period of power of the provisional Government Committee shall continue in force until altered, amended or repealed by some law, rule or regulation proclaimed after approval as aforesaid.

9. The Chief Court shall undertake judicial enquiry into the validity of disputed concessions, so soon as the Swazie Government shall have framed and proclaimed a list of those concessions which it approves of; such enquiry shall be conducted in accordance with such laws, rules and regulations as aforesaid.

10. In all Courts of Justice in Swazieland, and in all official communications of the Government Committee, the English and Dutch languages shall have equal rights.

11. The Administrative and Executive powers under this Proclamation shall be vested in the Government Committee, but no powers or jurisdiction shall be claimed or exercised by the Government Committee or any judicial tribunal in respect of any question, matter or thing in which Swazie natives alone are concerned.

12. All lawfully acquired rights vested in any person shall be recognised by the Government Committee, and by all judicial tribunals, subject to such laws, rules, and regulations aforesaid.

13. The revenue from sources approved by the aforesaid Proclamation of the 18th December, 1889, shall be collected by officers appointed by the Government Committee, and shall be by such officers paid over to the Government Treasurer, subject to such rules and regulations as to accounts and audit as shall be approved of by Her Majesty's High Commissioner and the State President of the South African Republic; provided that no revenue shall be derived from any source not heretofore lawfully recognised unless and until a Proclamation establishing such source of revenue shall have been published in Swazieland by the Government Committee with the consent and approval of Her Majesty's High Commissioner and the State President of the South African Republic.

14. The Government Committee shall be authorised, in cases of emergency, and with the full consent of all three members, to delegate to one or more of them the exercise in any part of Swazieland of any of the Administrative or Executive powers vested in the said Committee under this Proclamation.

15. The Provisional Government Committee shall duly account to the Government Committee, hereby established, for all moneys received, and shall deliver up to the Government Committee all books, records, accounts, and documents concerning the administration of Government and the exercise of judicial functions by the Provisional Government Committee.

16. All legal proceedings pending before the Provisional Government Committee shall be stayed, but may be taken up and prosecuted before any competent Court hereafter established under this Proclamation, which Court shall have jurisdiction to determine any such proceeding in accordance with such laws, rules or regulations as aforesaid.

A.D. 1890.]

*Organic Proclamation.*

Thus done and passed at Our Royal Kraal of Kwasomboti,  
Kwawaququ, this Thirteenth day of September, 1890.

(Signed) UNGWANE, King, his X mark.  
USIBOTI, his X mark.  
JOKOVU, his X mark.  
TIKUBA, his X mark.  
MALOYE, his X mark.  
UMGOQO, his X mark.  
PANGWINI, his X mark.  
UMAHLOKU, his X mark.  
NONGANQU, his X mark.  
UMBAIMBOI, his X mark.  
UMATEKULU, his X mark.  
UMAFIKO, his X mark.  
NOCOCO, his X mark.  
UMOLAIN, his X mark.  
UMBABA, his X mark.  
NISKAMBENI, his X mark.  
MABELE, his X mark.  
UNKONKONI, his X mark.  
UNOVISI, his X mark.  
NOMAGAGA, his X mark.  
UMSHIETSHA, his X mark.

As Witnesses :

1. CHAS. B. ACTON.
2. J. ANDERSON.
3. JOHN GAMA.

Interpreted by me,  
THEOPHILUS SHEPSTONE,  
Resident Adviser and Agent,  
Swazie Nation.

True Copy :

JOHN Z. DE VILLIERS,  
Government Secretary.

Government Offices,  
Bremersdorp, 23rd September, 1890.

PROCLAMATION.

TO ALL WHOM IT MAY CONCERN :

We, Usibati, Queen Regent, and We, Ungwane, King of the Swazie Nation, by and with the consent and advice of Our Headmen in Council assembled at our Royal Kraal, do hereby declare, proclaim and make known as follows :

Whereas on the 13th day of September, 1890, We, acting with the consent of Our Headmen and Councillors aforesaid, did at our Royal Kraal at Somboti by a certain Organic Proclamation, make certain provisions for the better government of, and in Swazieland, and did amongst other things create and establish a Chief Court with jurisdiction and powers as are in the said Organic Proclamation more fully set forth :

And whereas it is expedient and advisable to supplement the said Organic Proclamation :

Now therefore We, Ungwane, acting as aforesaid, do hereby proclaim, decree and make known as follows :

1. In all actions and applications commonly known as Confirmations of Concessions the Chief Court shall have power to make an order declaring a Concession whether it be on the approved list or not and whether it be disputed or not to be a valid grant enforceable under the laws and regulations provided for by the said Organic Proclamation, and in enquiring into the Confirmation of any such Concession the said Chief Court shall follow the laws and regulations as provided for in the said Organic Proclamation ; provided, however, that no such order shall be deemed to have the effect of preventing any future legal proceedings with regard to any question now existing or arising hereafter of overlapping, or of boundaries, or of conflict of rights between concessions duly confirmed.

Thus done and passed at Somboti, this 29th day of November, 1890.

(Signed)

UNGWANE, his X mark.  
USIBATI, her X mark.  
TIKUBA, his X mark.  
PANGWINI, his X mark.  
U'HOKA, his X mark.  
NOCOCO, his X mark.  
UMBABA, his X mark.  
MAKAMBANI, his X mark.

As witnesses :

(Signed) JOHN GAMA.  
W. E. HOLLARD.  
F. ANDERSON.

Interpreted by me :

(Signed) THEOPHILUS SHEPSTONE,  
Resident Adviser and Agent, Swazie Nation.

## LAW No. 7, 1890.

## AGAINST THE HOLDING OF LOTTERIES.

(Approved and enacted by Resolution of the Hon. Volksraad,  
Article 593, dated 5th July, 1890.)

Whereas it is desirable to prevent and make penal the holding of lotteries, be it hereby provided and enacted as follows:—

Lotteries  
forbidden.

1. Any person who, either personally or by a representative authorised by him, or as the representative of another person or persons, known or unknown,

(a) establishes or starts a lottery, or as a partner (deelgenoot), or in another way is therein beneficially concerned;

(b) manages, conducts, or in any way whatsoever assists in the management or conduct thereof;

(c) sells or disposes of any ticket in a lottery, or offers to sell or dispose of or takes or purchases or has any share therein;

(d) knowingly permits that any house, room, or other place under his supervision be used for the management or conduct of a lottery, or for any object in connection therewith;

Penalties.

shall be guilty of a contravention of this law, and shall upon conviction be punished for the first offence by a fine not exceeding two hundred pounds sterling, or in default of payment, by imprisonment with or without hard labour not exceeding six months, and for every subsequent contravention by a fine not exceeding five hundred pounds sterling, or by imprisonment with or without hard labour for a period not exceeding twelve months, or by both imprisonment and fine.

Penalty for  
publishing  
lotteries in  
newspapers,  
etc.

2. No publisher or owner or other person who has the control and administration of a newspaper or public print, and no owner of or other person who has the management or control of a printing press shall print or publish as an advertisement or otherwise, either in such newspaper or public print or otherwise, any notice of a lottery to be held in this Republic or elsewhere.

Contravention of this article shall be punished by a fine not exceeding fifty pounds sterling, or, on non-payment, by imprisonment with or without hard labour for a period not exceeding one month.

Penalties for  
distributing  
handbills, etc.,  
announcing  
lotteries.

3. Every person who, personally or by a servant or agent, distributes or delivers, or causes to be distributed or delivered, in this Republic handbills or other documents which contain in print, writing, or otherwise, a notice of or information concerning a lottery, shall be punished by a fine not exceeding fifty pounds for each offence, or, on non-payment, by imprisonment with or without hard labour for a period not exceeding one month.

4. No judicial steps can be taken by a subscriber to a lottery for the obtaining of transfer, delivery, or payment of any prize, and no transfer of immovable property won as a prize at a lottery shall be lawful or be permitted by the Registrar of Deeds.

No action arising out of lotteries enforceable. Transfers void.

5. No person shall, merely because the management, the regulating, and the conduct of such lottery takes place wholly or in part in some place or places beyond the limits of this Republic, be deemed to be exempted from liability in any proceeding, either civil or criminal, under the provisions of this law, in respect of an act or deed done by him, or caused to be done by him with reference to or in connection with a lottery.

Lotteries held beyond boundary of State.

6. In this law the following terms shall have the meanings hereby given to them, viz. :—

Interpretation of "Lottery."

*Lottery* signifies every lottery in the general and accepted meaning of the word, where subscription takes place, and more especially every scheme, institution, system, plan, or design by means of which a prize or prizes are or may be won, drawn, or thrown for by lot, dice, or other method of chance, whether or not the happening of any other accidental occurrence other than the result of the application or use of such dice or other method of chance should have to be considered (daar in aanmerking komt).

*Prize* means money or any other matter, object, or thing, including land, houses, goods, wares, or other properties, movable or immovable, and including every right to claim money and every right to property, user, usufruct, or occupation of lands, houses, goods, wares, or other properties.

"Prize."

*To subscribe* means to pay or deliver, whether through the intervention of an agent or not, to any person whomsoever, any sum of money or any article, thing, or object, movable or immovable, whether such article or thing is in itself of any money value or not, for and in consideration of and with the object of receiving from any person or persons whomsoever, any right or the acknowledgment of any right to participate in or to secure any chance of winning any prize in a lottery.

"To subscribe."

*Subscription* means the money, article, or object subscribed for including the proceeds of such article or object if sold or disposed of for money, and including every other article or object received in exchange therefor\* or otherwise.

"Subscription."

7. (a) Lotteries of erven or ground placed at disposal by the Government;  
(b) *Repealed by Transvaal Proclamation No. 33, 1901, section eleven;*

Exemptions : Lotteries of erven, etc.

\* The word *therefor* (daarvoor) does not appear in publication of Lokal<sup>c</sup> Wetten (1890-1893), but appears both in publication of *Staatskoerant* and in Minutes of Volksraad.

Lotteries in  
connection  
with racing.

shall not fall under this law as long as they do not assume the appearance of gambling.

Jurisdiction  
of Landdrosts.

8. The Courts of Landdrosts, Special and Assistant Landdrosts, shall have special jurisdiction in all cases under this law.

Third of fines  
go to  
informer.

9. A third of all fines imposed and recovered under this law shall be paid over to the informer.

10. This law comes into operation three months after publication in the *Staatskoerant*.†

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† Published in *Staatskoerant* of 23rd July, 1890.

## ‡VOLKSRAAD RESOLUTION, 10th May, 1890.

Art. 58. § The Volksraad having considered Government Minute of the 7th May, 1890, now on the order, and the contents of all Executive Council Resolutions cited in that minute resolves to approve of the different regulations and provisions contained in the Executive Council Resolutions, and to declare them valid in law and of force from the date of the coming into operation therein mentioned until the Volksraad may further decide thereupon.

Prohibition  
of boxing  
contests.

Said Executive Council Resolutions read :—

Executive Council Resolution, article *seven hundred and fifty-four*, dated 4th December, 1889.

On the order: Minute R. 12075/89, containing Draft Executive Council Resolution sent in by the State Attorney as to the prohibition of boxing contests for money or prizes or otherwise.

‡ This Volksraad Resolution confirms seven separate Executive Council Resolutions, viz. :—

- (1) Executive Council Resolution, 4th December, 1889, Art. 754—Prohibition of boxing contests.
- (2) Executive Council Resolution, 15th October, 1889, Art. 663—Expropriation of ground for Boksburg-Springs and Johannesburg-Krugersdorp tramways.
- (3) Executive Council Resolution, 31st October, 1889, Art. 699—Appointment of Judicial Commissioner at Pretoria. This Executive Council Resolution is repealed by Trans. Proc. 34, 1901, as dated 8th April, 1890.
- (4) Executive Council Resolution, 8th April, 1890, Art. 271—Appointment of Judicial Commissioner at Johannesburg. This Executive Council Resolution is repealed by Trans. Proc. 34, 1901.
- (5) Executive Council Resolution, 18th December, 1889, Art. 786—No inland company with reference to erection of mints, railways, tramways, telegraph lines, etc., or the statutes of which affect the interests of the State may be registered. This Executive Council Resolution has been repealed by Act 31, 1909, section 1.
- (6) Executive Council Resolution, 29th November, 1889, Art. 746—No foreign companies to be registered unless incorporated under Law 6, 1874. This Executive Council Resolution has been repealed by Act 31, 1909, section 1.
- (7) Executive Council Resolution, 9th April, 1890, Article 276—Grant of Government ground for sidings on tramway Johannesburg-Boksburg.

In the "Laws of the Transvaal up to 1899," published by authority in 1901 and 1903, two Volksraad Resolutions of the 10th May, 1890, Art. 58, are published; the first as a substantive resolution of the Volksraad "relating to boxing" and giving the contents of Executive Council Resolution of 4th December, 1889, Art. 754; and the second as confirming two resolutions of the Executive Council, to wit: Art. 786, of 18th December, 1889, dealing with registration of certain inland companies, *inter alia* those formed for the construction of railways and tramways, and Art. 746 of 29th November, 1889, dealing with registration of foreign companies. The Legislature, when passing the Railway Construction Prohibition Law Amendment Ordinance of 1904 (43, 1904) apparently overlooked the fact that Volksraad Resolution Art. 58 confirmed a number of Executive Council Resolutions dealing with other matters besides railways, and repealed this Volksraad Resolution, Art. 58, *in toto* (as a \*First Volksraad Resolution). In *Clarke v. Bruning* (1905, T.S. 295) the Supreme Court, accepting the 1901 compilation, held that Volksraad Resolution Art. 58 consisted of two parts, the one legislating directly in regard to boxing contests, and the other validating an Executive Council Resolution relating to railways; and that the repeal in Ordinance 43, 1904, affected the latter only.

§ Published in *Staatshoerant*, 21st May, 1890.

\* The *First* Volksraad only came into existence in 1891.

The Executive Council, recognising the urgent necessity for making the necessary provisions in this matter, and having taken cognisance of the power granted to the Government by Volksraad Resolution, article *one thousand two hundred and forty-five*, dated 2nd August, 1889, resolves as follows:—

1. Boxing contests for money or prizes or otherwise are prohibited.

Boxing contests forbidden.

Penalties on principals, seconds, spectators, etc.

2. Every person who participates in a contest as mentioned in article *one*, either as one of the fighting parties or as a second, umpire, or spectator, shall be punished with a fine not exceeding £100, or imprisonment with or without hard labour, not exceeding twelve months, or both fine and imprisonment.

Jurisdiction.

3. The Courts of Landdrosts, Special and Assistant Landdrosts and Mining Commissioners, shall have special jurisdiction to impose the penalties under this law.

Arrest without warrant.

4. Police constables, Field Cornets, Justices of the Peace, and other officials charged with the administration of justice shall have the right without warrant to apprehend offenders caught in the act and to bring them to the nearest court of law in order to be dealt with according to law.

5. This Executive Council Resolution shall have force of law immediately after publication in the *Staatskoerant*.||

B 2 W 7 of 1915

### VOLKSRAAD RESOLUTION, 19th May, 1890.

Amendment of Pound Law.

Art. 145.\* The Raad agrees with the amendment of the second paragraph of article *two* of Law No. 2, 1882, as proposed in Executive Council Resolution, article *three hundred and forty-four*, dated 5th May, 1890.

Said Executive Council Resolution reads:—

On the order: Minute R. 12532/89, containing correspondence as to the establishment of pounds.

The Executive Council having considered the second paragraph of article *two* of Law No. 2, 1882, being the law on pounds of the South African Republic.

Resolves to propose to the Hon. Volksraad to amend said paragraph as follows:—

Pounds to be at least eighteen miles apart, unless Executive Council directs otherwise.

It is further provided that the pounds may not be established at a less distance than eighteen miles from each other unless the Executive Council for special reasons deem it desirable to permit a pound at a less distance near public diggings or near (bij) towns.

|| Published in *Staatskoerant*, 11th December, 1889.

\* Published in *Staatskoerant*, 4th June, 1890.

## VOLKSRAAD RESOLUTION, 20th May, 1890.

Art. 150.† The Raad approved of Executive Council Resolution, article *three hundred and seventy-one*, dated 16th May, 1890.

Said Executive Council Resolution reads:—

On the order: Discussion of the question whether it is possible under the existing law that private persons or companies may construct and exploit rail or tram ways on their ground without previous consent of the Hon. Volksraad, Executive Council, or of the Government.

The Executive Council recognising the desirability that every uncertainty relating hereto should be removed;

Resolves to propose to the Hon. Volksraad to enact and resolve as follows:—

1. That no person whosoever shall have the right to construct or exploit within the limits of this State, railways or tramways driven by other than animal power without having thereto obtained the express consent of the Volksraad or of the Executive Council or of the Government authorised thereto by the Volksraad.

2. That the Government is authorised, with advice and consent of the Executive Council, to issue such regulations (containing penalties) and to take such measures as are necessary and desirable in order to carry into effect and maintain the provisions of No. 1.

No railways or tramways propelled by mechanical power may be constructed save by leave of Volksraad or Executive Council.

Government to frame regulations, etc.

## VOLKSRAAD RESOLUTION, 24th May, 1890.

Art. 175.\*§ The Raad unanimously approved of the proposal contained in Executive Council Resolution, article *three hundred and eighty-eight*, dated 24th May, 1890.

Said Executive Council Resolution reads:—

On the order: Discussion *re* granting of *erven* to each of the three Dutch churches, in accordance with the resolutions of the Hon. Volksraad thereanent;

Resolved to propose to the Hon. Volksraad to resolve|| that *erven* so granted to the three Dutch churches for ecclesiastical purposes may be sold by those churches in order to employ the proceeds for ecclesiastical purposes, and to cancel the restriction that they may only be used to erect church buildings thereon.

Erven granted to churches may be sold for ecclesiastical purposes.

† Published in *Staatskoerant*, 4th June, 1890. See First Volksraad Resolution<sup>7</sup> 7th December, 1896, Art. 2249 (repeating prohibition—not published), and Ordinance 43, 1904, section 2 (*infra*). See F.V.R.R. 11/11/97, Art. 1702 (*infra*); F.V.R.R. 1/9/98, Art. 1055 (*infra*); F.V.R.R. 29/11/98, Art. 1855 (*infra*); F.V.R.R. 5/7/99, Art. 417 (*infra*).

\* See footnote to V.R.R. 14th June, 1887, Art. 540 (*supra*).

§ Published in *Staatskoerant*, 4th June, 1890.

|| Words underlined are omitted in Lok. Wetten, but appear in Volksraad Minutes.

## VOLKSRAAD RESOLUTION, 27th May, 1890.

Interpreta-  
tion as to  
registration  
of servitudes.

Art. 184. The Raad unanimously agreed with the Commission report in the matter of the petitions of A. C. Fourie and others, D. G. Kruger and others, A. H. Mulder and others, and W. M. Edwards.

Said report reads:—

Your Commission is of opinion that petitioners in this matter have a wrong conception of the law, since according to the law it is sufficient if the endorsement (aanteekening) of the servitude takes place at the Registration of Deeds Office on the duplicate transfer—filed there—of the property which is subject to the servitude, and in the register, without it being necessary to make such endorsement on the transfer in possession of the owner.

Your Commission for the rest recommends to pass the following resolution, and to communicate same to petitioners, viz. :—

Registration  
of servitude  
against  
servient  
tenement.

In all cases where a servitude has been tendered and registered at the office of the Registrar of Deeds within the two years mentioned in Law No. 3, 1886, according to article *one* of said law, but is not registered on the transfer of the servient tenement, as provided in said article *one*, the Registrar of Deeds\* is authorised either on his own motion or upon request of the persons interested to attach or register such servitude according to law against the transfer of the servient tenement, provided such property has not yet been transferred to third persons free from that servitude.

\* Words underlined are omitted in Lokale Wetten, but appear in Minutes of Volksraad.

**1891.**

## LAW No. 2, 1891.

## MASKS AND DISGUISES.

(Approved and enacted by Second Volksraad Resolution, Article 263, dated 29th May, 1891, and accepted as notice by First Volksraad Resolution, Article 302, dated 5th June, 1891.)

Whereas it has appeared that by the use of masks, false beards, or other disguises, fraud has more than once been committed by leading the public to believe that it has to deal with another person than is actually the case, and

Preamble.

Whereas disguises are also made use of by fugitives, who thereby endeavour to escape prosecution :

Be it hereby enacted and provided as follows:—

1. The wearing or use of masks, false beards, or other means whereby disguises are effected, in public roads or other public places is forbidden.

Wearing of masks, etc., forbidden.

2. Disguises at theatrical performances or other diversions, the holding of masked balls at places accessible to the public, shall not fall under this law. The masked or disguised persons may not, however, show themselves in the public roads unless in special cases such as processions and the like permission is granted by the Landdrost or any other official competent thereto in the district where such occurs.

Theatrical performances and masked balls exempted.

3. Any contravention of this law shall be punished by a fine not exceeding £5, or in default of payment by imprisonment not exceeding fourteen days.

Penalties.

4. This law comes into operation three months after publication in the *Staatskoerant*.\*

\* This law was published for the first time in *Staatskoerant* of 17th June, 1891.

LAW No. 9, 1891.†  
Amendment of Law No. 2, 1884.

LAW ON GENERAL SURVEY.

(Revised by the Commission appointed by Volksraad Resolution, Article 441, dated 19th June, 1891.)

(Approved and enacted by Resolution of the Hon. First Volksraad, Article 1,075, dated 23rd July, 1891.)

General survey.

1. A commencement shall be made without delay with the general survey of this Republic under Government supervision.

Appointment of surveyors.

2. The Surveyor-General shall, with the approval of the Government, appoint the surveyors for the general survey, give them the necessary instructions for the due execution of their work, and see to it (*zorgdragen*) that the general plans or diagrams and field work handed in by them are examined.

Distribution of work.

3. In order that the survey may be effected as fairly as possible, a separate section of the country shall be assigned to each land surveyor employed, which shall be surveyed by him, and called a survey section.

Notice of survey of section.

4.\* *Six weeks before commencement is made with the survey of any survey section, notice of the same shall be given in the Staatskoerant, in which notice the name and boundaries of the survey section shall be set out as accurately as possible. The Field Cornets in such division shall be obliged without delay to acquaint their burghers with the contents of such notice.*

*In case the owners of occupied or unoccupied farms are not present, the surveyor shall proceed with the work, according to the pointing out (*aanwijzing*) by neighbours and other persons acquainted with the lawfully recognised beacons, in accordance with the descriptions and the diagrams of the adjoining grounds.*

*If the latter cannot be done, and if the owner (or owners) of a farm still fails, after proper personal‡ citation and written notice by the surveyor charged with the survey of the survey section, to point out the beacons of his farm or to have them pointed out, the surveyor shall be entitled to call upon one of the old inspectors or other persons acquainted with the beacons of the farm to point out to him the beacons of the same.*

*The remuneration for the same shall be according to the tariff fixed for inspectors for pointing out beacons, and the costs shall be added to the costs of surveying, and shall be recoverable in the same way. When it is a question of pointing out the beacons of farms settled by special commissions,*

† See F.V.R.R. 14th June, 1892, Art 441 (*infra*); F.V.R.R. 29th August, 1892, Art. 1314 (*infra*). As to Trigonometrical Survey see Ord. 11, 1903.

\* This article has been substituted by Law 7, 1897, Art. 1.

‡ The word "personal" appears in the publication in the *Staatskoerant* and in the *Lokale Wetten*, but does not occur in the *Volksraad Minutes*.

*such pointing out shall be done by those inspectors by whom such farms have been inspected without their being able to claim further remuneration for the same.*

5. Inspectors of farms shall be obliged at all times when such is required to point out the beacons and boundaries of the farms inspected by them, and if they do not comply with a proper summons (oproeping) shall be liable for costs and damages.

Inspectors of farms.

6. All beacons acknowledged as lawful shall be inviolable (onverzetbaar). A diagram shall in all cases agree with these beacons. If at any survey it should appear that the diagram does not accurately represent the said beacons such diagram shall be amended in order to bring it into agreement with the beacons, and this at the cost of the surveyor by whom the farm was surveyed and the faulty diagram framed, should it appear that he is responsible for the error.

Acknowledged beacons are inviolable.

7.‡ *Any approved diagram shall be cancelled by the Surveyor-General on request of the owner or owners of the farm, after a notice has been published by him (the Surveyor-General) in the Staatskoerant and moreover written notice has been sent to the parties interested whereby the owners of the adjoining farms are cited and notified that if they have any objections to the cancellation of the diagram they must send their objections to the Surveyor-General within three months from the date of the publication of the citation and the date of notification.*

Cancellation of diagram.

*If the latter finds the objections well founded (gegrond) he shall not proceed to annul the diagram.*

8. At each survey and in the framing of each diagram the Cape or existing measure shall be used.

Cape measure.

9. The Surveyor-General or persons appointed by him, or in their service, shall have the right in carrying out this law to enter on any farm or any piece of ground with wagons, horses, draught cattle, etc. They shall at the same time have the right to make use of the materials found on the land for the erection of beacons or for other purposes of this law. By this provision it is naturally not intended that the said persons should have any right whatsoever to damage artificial work (handenwerk) of whatsoever kind, or to cause any kind of damage.

Right to enter on farms, etc.

10. Any one who intentionally obstructs or hinders the Surveyor-General, or any person or persons mentioned in article *nine*, in the carrying out of his or their duties, or prevents the access to any land, necessary for the purposes mentioned in this law, shall be punished by a fine not exceeding £20, or, on non-payment, by imprisonment, with or without hard labour, for a period not exceeding two months.

Penalties for obstruction.

11. Any one who wilfully damages or destroys either a beacon or a surveyor's flag or a trigonometrical station (pijlbaken), shall be punished by a fine not exceeding £100 sterling, or, on non-payment, by imprisonment with or without hard labour, not exceeding twelve months.

Penalties for wilful damage to beacons, etc.

‡ This article has been substituted by Law No. 7, 1897, Art. 2.

Payment of  
survey money.

12.\* As soon as the surveyor has prepared the diagram and the Surveyor-General has approved of same, the owner shall be obliged to deposit immediately the half of the survey money with the Government, or with any official thereto appointed by the Government, which deposited money shall, upon order of the Government, be paid out to the surveyor; the second half shall be paid by the owner as soon as the diagram has been signed by the State President,§ and shall thereafter be paid out to the surveyor in the same manner as the first half.||

Demand on  
owners failing  
to pay survey  
money.

13. Owners of farms who do not in due time pay up the costs of the survey of their farm or farms in accordance with the provisions of this law, shall if they reside abroad be called upon by Government Notice in the *Staatskoerant*, and, if resident within the State, they shall receive a demand, in either case to pay up the costs of survey within a period fixed by the Government; should such not be complied with within that appointed time, a writ of summary execution shall be issued in terms of Law No. 10, 1885,¶ and Law No. 6, 1886.¶

Trigonometrical  
stations.

14. Each surveyor shall be obliged to erect in his survey division, in consultation with the Surveyor-General, certain trigonometrical stations (*pijlbakens*) as fixed points, which may afterwards serve the purposes of a trigonometrical survey, and he shall at the same time be obliged to use them as points of connection.

Only  
admitted  
surveyors  
may survey  
or may sign  
as such.

15. No land surveyor shall be permitted to survey grounds or farms, unless he has been duly admitted as such by the Government.

*\*No person not properly admitted as surveyor by the Government shall have the right to style himself surveyor on any diagram or any document, or to advertise himself as such, under penalty of the fine as provided in said article fifteen.*

Penalties.

Contravention of this article shall be punished by a fine not exceeding £100, and, on non-payment, by imprisonment not exceeding twelve months, with or without hard labour.

Beacon com-  
mission to be  
appointed in  
each ward.

16. The Government shall appoint a beacon commission in each ward, and provide them with instructions in order to regulate the matters relating to the beacons and boundaries for the general survey.

Owners to  
erect beacons.

17. All owners of unsurveyed as well as surveyed farms shall be obliged, as and from publication of this law, without delay, to erect or cause the beacons of their farms to be erected at least three feet high, under penalty, in case of negligence, of £1 sterling in respect of each beacon which shall not have been so erected or kept in repair; this fine shall be repeated as often as after the lapse of one month the erection or repair above referred to shall not have been effected.

\* See F.V.R.R. 1st June, 1893, Art. 236 (*infra*).

§ See Law No. 22. 1894, Art. 15.

|| See F.V.R.R., 21st July, 1891, Art. 1040 (*infra*).

¶ Both these laws have been repealed.

\* Paragraph in italics was added by First Volksraad Resolution, 18th July, 1894, Art. 888.

18. Owners of unsurveyed farms, the beacons of which are unknown to them, shall be obliged, as soon as possible, to apply to the Beacon or Special Commission in order that they may get their beacons erected.

Unknown beacons to be ascertained and erected.

19. Every owner of land shall be obliged to point out his beacons or pegs to any person thereto appointed by the Government.

Owners to point out beacons.

20. Where several farms adjoin each other, the beacons of which farms are unknown, the Beacon Commission shall inspect the same anew and define the beacons thereof, with the exception of cases for which provision is made by Law No. 3, 1887, in which case the owners shall have to apply to the Special Commission.

New inspection in certain cases.

21. Any person who is guilty of destroying, breaking down, or removing a beacon of an unsurveyed farm, referred to in articles *sixteen* and *seventeen*, shall forfeit a fine of £10, or, on non-payment, be punished by imprisonment not exceeding one month.

Penalties for destroying, etc., beacons of an unsurveyed farm.

22.† *In case it appears that there might be disputes or differences with regard to a farm which the surveyor has been instructed to survey he shall not proceed to survey that farm until all questions affecting it have been solved or brought to a settlement by parties.*

Disputes.

*If, however, the survey is expressly desired by the owner (or owners) of the farm, the surveyor may proceed with the survey. In that case the owner shall be responsible for the costs of survey if the dispute is subsequently decided against him (tot zijn nadeel) and the survey and diagram already made have to be altered. The owner (or owners) shall be obliged, within fourteen days after receiving the notice from the surveyor that the latter is going to survey the farm, to take the necessary steps to have the existing disputes or differences settled by arbitration or otherwise; if this is not done by the owner (or the owners) of the farm within those fourteen days, then the surveyor shall proceed with the survey as if no differences exist.*

Survey notwithstanding disputes.

23. In case of differences regarding beacons and lines between owners of adjoining farms, which cannot be settled by mutual compromise, the parties concerned on each side may nominate an arbitrator, and also an umpire, in order to have such difference decided, after a deed of submission shall have been signed in the presence of two witnesses.

Arbitration in cases of disputes as to beacons and boundaries.

The form of that deed of submission shall be prepared by the State Attorney, approved of by the Government, and printed on the authority of the latter.

Form of deed of submission.

24. In case one of the parties concerned is desirous of electing an arbitrator, and of proceeding in terms of article *twenty-three*, the other party shall also be obliged thereto, and should the latter refuse, the Beacon Commission shall appoint an arbitrator in accordance with what is provided with reference thereto in Volksraad Resolution, article *one*

Arbitrators—how to be appointed.

† This article has been substituted by Law No. 7, 1897, Art. 3.

*hundred and eighty-four*,¶ dated 21st May, 1885, to which such other party shall be obliged to submit. If, however, the Beacon Commission, or one of the members thereof, is concerned or interested in the dispute, the Executive Council shall act instead of the Beacon Commission in regard to the appointments referred to in the previous paragraph (aline). (Executive Council Resolution, Article 373, dated 21st June, 1889; Volksraad Resolution, Article 481, dated 21st June, 1889.)

Award final. 25. If the arbitrators, appointed in terms of article *twenty-three*, shall agree in their award concerning the dispute referred to them by the deed of submission, such decision shall be final and binding on the parties concerned, so that they shall not be able to appeal.

Umpire. 26. In case the arbitrators appointed by the parties do not agree in their award, the person named in the deed of submission as umpire shall give the final decision, from which there shall be no appeal.

When matter may be referred to court of law. 27. If both parties will not adopt the course indicated in articles *twenty-three*, *twenty-four*, and *twenty-five*, but desire to have their case dealt with by any court in this State, such may be permitted to them, provided that both parties declare in writing that such is their desire, and, at the same time, state before which court they wish their case to be tried.

Size of farms yet to be inspected. 28. Farms which have not yet been inspected, or the beacons of which are unknown, shall not be inspected larger than 3,750 morgen at the most.

Private surveys permitted only in urgent cases. 28a. No private surveys shall be permitted during the general survey, as and from the date of the publication of this law. Only in urgent cases the owners of farms or their agents, after having obtained permission thereto from the Government, shall have the right to have the said farms surveyed.

Repeal. 29. All previous laws and Volksraad Resolutions conflicting with the provisions of this law are hereby repealed.

30. This law shall be of force immediately after publication in the *Staatskoerant*.‡

#### TARIFF FOR THE GENERAL SURVEY.\*

	£	s.	d.
Surveyors' tariff. For the survey of a separate piece of ground under 10 morgen ... ..	3	0	0
For the division of any piece of ground into separate portions of less than 10 morgen each—			
For two lots together ... ..	3	15	0
For three lots together ... ..	4	10	0
For four lots together ... ..	5	5	0
For five lots together ... ..	6	0	0
For each further lot not being a square lot ... ..	0	10	0
For each further lot being a square lot of above 5 to 50 lots ... ..	0	9	0

¶ Repealed by Trans. Proc. No. 34, 1901.

‡ Published in *Staatskoerant*, 12th August, 1891.

\* Called "Annexure I" in the 1901 compilation of Transvaal Laws.

	£	s.	d.
Above 50 to 100 ... ..	0	7	6
Above 100 to 200 ... ..	0	6	0
Above 200 ... ..	0	5	0
For each piece of land of from 10 to 25 morgen ...	4	0	0
For each piece of land from 25 to 75 morgen ...	5	0	0
For each piece of land of 100 morgen ...	5	4	0
"  "  "  125  "  ... ..	5	8	0
"  "  "  150  "  ... ..	5	12	0
"  "  "  175  "  ... ..	5	16	0
"  "  "  200  "  ... ..	6	0	0
"  "  "  225  "  ... ..	6	4	0
"  "  "  250  "  ... ..	6	7	0
"  "  "  275  "  ... ..	6	10	0
"  "  "  300  "  ... ..	6	13	0
"  "  "  325  "  ... ..	6	16	0
"  "  "  350  "  ... ..	6	19	0
"  "  "  375  "  ... ..	7	2	0
"  "  "  400  "  ... ..	7	5	0
"  "  "  425  "  ... ..	7	8	0
"  "  "  450  "  ... ..	7	11	0
"  "  "  475  "  ... ..	7	14	0
"  "  "  500  "  ... ..	7	17	0
"  "  "  525  "  ... ..	8	1	0
"  "  "  550  "  ... ..	8	4	0
"  "  "  575  "  ... ..	8	8	0
"  "  "  600  "  ... ..	8	12	0
"  "  "  625  "  ... ..	8	15	0
"  "  "  650  "  ... ..	8	19	0
"  "  "  675  "  ... ..	9	2	0
"  "  "  700  "  ... ..	9	5	0
"  "  "  725  "  ... ..	9	9	0
"  "  "  750  "  ... ..	9	12	0
"  "  "  775  "  ... ..	9	15	0
"  "  "  800  "  ... ..	9	18	0
"  "  "  825  "  ... ..	10	1	0
"  "  "  850  "  ... ..	10	4	0
"  "  "  875  "  ... ..	10	7	0
"  "  "  900  "  ... ..	10	10	0
"  "  "  925  "  ... ..	10	13	0
"  "  "  950  "  ... ..	10	16	0
"  "  "  975  "  ... ..	10	19	0
"  "  "  1,000  "  ... ..	11	2	0
"  "  "  1,050  "  ... ..	11	7	0
"  "  "  1,100  "  ... ..	11	12	0
"  "  "  1,150  "  ... ..	11	18	0
"  "  "  1,200  "  ... ..	12	3	0
"  "  "  1,250  "  ... ..	12	8	0
"  "  "  1,300  "  ... ..	12	13	0
"  "  "  1,350  "  ... ..	12	18	0
"  "  "  1,400  "  ... ..	13	2	0
"  "  "  1,450  "  ... ..	13	7	0
"  "  "  1,500  "  ... ..	13	11	0

			£	s.	d.
For each piece of land of	1,550	morgen	... 13	16	0
„	1,600	„	... 14	0	0
„	1,650	„	... 14	5	0
„	1,700	„	... 14	9	0
„	1,750	„	... 14	13	0
„	1,800	„	... 14	17	0
„	1,850	„	... 15	2	0
„	1,900	„	... 15	6	0
„	1,950	„	... 15	10	0
„	2,000	„	... 15	13	0
„	2,050	„	... 15	17	0
„	2,100	„	... 16	1	0
„	2,150	„	... 16	5	0
„	2,200	„	... 16	9	0
„	2,250	„	... 16	13	0
„	2,300	„	... 16	16	0
„	2,350	„	... 17	0	0
„	2,400	„	... 17	3	0
„	2,450	„	... 17	7	0
„	2,500	„	... 17	11	0
„	2,550	„	... 17	14	0
„	2,600	„	... 17	17	0
„	2,650	„	... 18	1	0
„	2,700	„	... 18	4	0
„	2,750	„	... 18	8	0
„	2,800	„	... 18	11	0
„	2,850	„	... 18	14	0
„	2,900	„	... 18	18	0
„	2,950	„	... 19	1	0
„	3,000	„	... 19	4	0
„	3,100	„	... 19	10	0
„	3,200	„	... 19	17	0
„	3,300	„	... 20	3	0
„	3,400	„	... 20	9	0
„	3,500	„	... 20	15	0
„	3,600	„	... 21	1	0
„	3,700	„	... 21	6	0
„	3,800	„	... 21	12	0
„	3,900	„	... 21	18	0
„	4,000	„	... 22	3	0
„	4,100	„	... 22	9	0
„	4,200	„	... 22	14	0
„	4,300	„	... 23	0	0
„	4,400	„	... 23	5	0
„	4,500	„	... 23	10	0
„	4,600	„	... 23	15	0
„	4,700	„	... 24	1	0
„	4,800	„	... 24	6	0
„	4,900	„	... 24	11	0
„	5,000	„	... 24	16	0
„	5,100	„	... 25	1	0
„	5,200	„	... 25	6	0

			£	s.	d.	
For each piece of land of	5,300	morgen	...	25	10	0
„	„	„	...	25	15	0
„	„	„	...	26	0	0
„	„	„	...	26	5	0
„	„	„	...	26	9	0
„	„	„	...	26	14	0
„	„	„	...	26	18	0
„	„	„	...	27	3	0
„	„	„	...	27	8	0
„	„	„	...	27	12	0
„	„	„	...	27	16	0
„	„	„	...	28	1	0
„	„	„	...	28	5	0
„	„	„	...	28	10	0
„	„	„	...	28	14	0
„	„	„	...	28	18	0
„	„	„	...	29	2	0
„	„	„	...	29	7	0
„	„	„	...	29	11	0
„	„	„	...	29	15	0
„	„	„	...	29	19	0
„	„	„	...	30	3	0
„	„	„	...	30	7	0
„	„	„	...	30	11	0
„	„	„	...	30	15	0
„	„	„	...	30	19	0
„	„	„	...	31	2	0
„	„	„	...	31	7	0
„	„	„	...	31	11	0
„	„	„	...	31	15	0
„	„	„	...	31	19	0
„	„	„	...	32	2	0
„	„	„	...	32	6	0
„	„	„	...	32	10	0
„	„	„	...	32	14	0
„	„	„	...	32	18	0
„	„	„	...	33	1	0
„	„	„	...	33	5	0
„	„	„	...	33	9	0
„	„	„	...	33	12	0
„	„	„	...	33	16	0
„	„	„	...	34	0	0
„	„	„	...	34	3	0
„	„	„	...	34	7	0
„	„	„	...	34	10	0
„	„	„	...	34	14	0
„	„	„	...	34	17	0
„	„	„	...	35	1	0
	10,000	„	...	35	1	0

For a number of morgen between 75 and 10,000, for which the said tariff does not fix a price, the price of the nearest number in the tariff shall be paid.

For a number of morgen in excess of 10,000, the price shall be computed by multiplying the square root of the number of morgen by 0.3505. The product will then constitute the amount in pounds, shillings, etc.

## A.

*For Figures of more than four sides.*

*Repealed by First Volksraad Resolution, 18th July, 1894, article eight hundred and eighty-four (infra).*

## B.\*

*For Curvilinear Boundaries.*

† For a distance of 200 roods = 800 yards, £1, calculated according to an imaginary straight line.

## C.‡

*For Diagrams and General Plans.*

Surveyors' tariff for diagrams and general plans.	For each diagram of a lot less than 10 morgen ...	£0	6	0
	For each diagram of a lot from 10 to 75 morgen ...	0	15	0
	For each diagram of a lot exceeding 75 morgen ...	1	1	0
	For a general plan of lots less than 60 morgen each:—			
	For each lot from 1 to 10 morgen ...	0	4	0
	For each lot from 10 to 50 morgen...	0	3	0
	For each lot from 50 to 100 morgen ...	0	2	0
	For each lot over 100 morgen ...	0	1	0
	For each general plan, ten morgen and upwards:—			
	For each figure of 10 morgen and upwards...	0	5	0
For each figure of 75 morgen and upwards...	0	7	0	

## D.\*

*Erection of Beacons.*

For the erection of beacons on any lot less than 10 morgen, per beacon ...	£0	2	6
Ditto of 10 morgen and upwards ...	0	15	0

Where many lots are surveyed together and adjoin each other, the cost of the erection of beacons shall be proportionately divided.

## INSTRUCTIONS FOR THE SURVEYOR-GENERAL. §

Surveyor-  
General.

1. There shall be a Surveyor-General, an Assistant Surveyor-General, and as many land surveyors as shall be admitted by the Government upon recommendation of the Surveyor-General.

\* Amended as to Government farms by Notice No. 575, 1904, in *Government Gazette*, 28th October, 1904.

† As amended by First Volksraad Resolution, 14th June, 1892, Art. 439 (not published).

‡ Called "Schedule C" in compilation of laws, 1901. See Act No. 15, 1909, section three, and Fourth Schedule to that Act "Surveyor-General's Office." The reference to above "Schedule C" is obviously an error.

§ Called "Annexure No. 2" in 1901 compilation of Transvaal Laws.

2. The Surveyor-General is responsible to, and receives his instructions from, the Government. Responsible to Government.
3. The Surveyor-General is charged with the regulation of everything appertaining to the surveying and charting of land, and the surveyors shall be obliged to follow the instructions of the Surveyor-General. His duties.
4. The Surveyor-General is charged with the examination of all inspection reports and general plans sent into the Executive Council, and shall notify his comments thereon to the Executive Council. Examination of diagrams.
5. In every survey, and in the framing of each diagram, the Cape or existing measure shall be used, which shall at all times be deposited and kept as standard measure at the office of the Surveyor-General. Cape measure to be used.
6. The Surveyor-General shall report yearly in the month of February to the Executive Council concerning the survey and what appertains thereto. Yearly reports.
- 7.¶ The Surveyor-General as well as the surveyors shall each furnish a security of £500 sterling approved of by the Government, and be sworn in according to the law of the South African Republic. Security.
8. The time of survey of any farm shall, in terms of article *seven* of the Beacon Law, be notified to the owners of the adjoining farms. If all owners cannot be found the surveyor shall give due notice at least fourteen days prior to the date of survey, both by publication in the *Staatskoerant* and by affixing to the door of the Landdrost office in the district where the farm is situate. Notice of survey.
- 9.¶ When any farm, erf, or piece of ground is surveyed by a surveyor, the diagrams thereof shall be sent in triplicate to the Office of the Surveyor-General. The Surveyor-General shall then examine these diagrams, and if found correct he shall thereafter cause a notice to be inserted in the *Staatskoerant* to the effect that these diagrams will be approved by him if within three months after publication no protest shall have come in against the said diagrams. The diagrams signed by the Surveyor-General shall be deemed to be a lawful and unimpeachable document. Transmission, examination, and notification of diagrams.
10. In case of protest against a diagram, such protest shall be valid if within three months after the date of publication it shall be followed up by the taking out of a summons. If such is not done the protest lapses, and upon lodging of a certificate from the Landdrost of the district in which the farm is situate, or of the Registrar of the High Court, that no summons has been taken out, the diagram shall be signed by the State President and thereafter issued. Diagrams signed by Surveyor-General unimpeachable.
11. The Surveyor-General shall see to it that the diagrams shall be in accord with the decrees of the judicial authorities, which shall be final (*uiteindelijk beslissend*). It shall be the Protest to be followed by summons.
- Diagrams to agree with judicial decrees. Deduction of all subdivisions.

¶ See, however, Ordinance No. 55, 1903.

¶ As amended by Law No. 22, 1894, Art. 15

duty of the Surveyor-General to deduct all divisions of farms on the original diagrams on those of the owner as well as those in the possession of the Government, for which stamp duty shall be paid in accordance with the tariff below. The diagrams of these sub-divisions are signed by the Surveyor-General only after approval, and are not published.

Cape measure to be used.

12. All surveys of ground shall be made in the Cape measure, and all diagrams be computed in morgen, square rods, etc. All diagrams surveyed by surveyors who have not been admitted by the Government on the recommendation of the Surveyor-General shall not be approved by the latter.

Regulations.

13. The Surveyor-General is instructed to frame regulations regarding the dividing lines between the districts, wards, and farms, and the condition or capacity of the farms, which the surveyor's diagrams sent in from time to time shall indicate.

It shall be noted on the diagram how far the farm surveyed is situate from the nearest village or from a known place.

Diagram of formation of new farm.

If the survey contains only one portion of a farm, or different portions of two or more farms, which portion or which portions are formed into one farm under a new name, the names of the adjoining farms shall be shown so that information may be obtained from the surveyor's diagrams; with this proviso, however, that the several portions of two or more farms shall together not be greater than a full farm or 3,750 morgen, unless the said portions are part (grond) of a farm previously granted as a larger area (grooter) under a single burgher-right, which then falls under the provisions of Volksraad Resolution, Article 739, dated 6th July, 1882, or under special approval of the Government.

#### TARIFF OF STAMP DUES.

(*Repealed by Act No. 15, 1909, Fourth Schedule.*)

#### †INSTRUCTIONS FOR SURVEYORS IN THE SOUTH AFRICAN REPUBLIC.‡

Surveyor must be admitted.

1. § No one shall be entitled to act as a surveyor or to do the work of a surveyor in the South African Republic unless he shall have been admitted as such by the Government and have furnished approved security for £500.

Licence.

2. § No diagram shall be approved at the Surveyor-General's Office if it has not been signed by a duly admitted surveyor who shall have taken out his licence for the year during which such farm was surveyed.

\* Words underlined have been omitted in Lokale Wetten 1890-1893, but appear in Minutes of the Volksraad, and in the publication in the *Staatskoerant*.

† Called "Annexure No. 3" in the 1901 compilation of Transvaal Laws.

‡ Subsequent instructions (unpublished) have been issued by the Surveyor-General; see instructions of Surveyor-General, section 3.

§ See Ord. No. 55, 1903.

The surveyor shall, as soon as a licence has been taken out by him, notify the Surveyor-General thereof and enclose a copy of the receipt.

Should the licence not have been taken out, the diagrams shall be returned to the surveyor.

3. No diagram shall be confirmed if the farm or the piece of ground thereby represented was not actually surveyed according to the erected beacons thereof by the surveyor who has signed the diagrams. Survey according to beacons.

4. Every surveyor employed by private persons is obliged to give written notice at least eight days prior to the commencement of the survey to adjoining owners, and if the latter cannot be found give, at least fourteen days before the date of the survey, proper notice by a publication in the *Staatskoerant*, and by affixing to the door of the Landdrost's office of the district where the farm is situate. No diagram shall be confirmed unless it be certified thereon that this has been complied with. Notice of survey.

Should he be employed by the Government he shall arrange the date with the Surveyor-General, and the latter shall give notice thereof in the *Staatskoerant*.

5. The surveyor shall, when surveying farms, obtain from the Field Cornet of the ward a certificate that no disputes exist as to beacons. The Field Cornet is obliged to grant such certificate. Field Cornet's certificate as to absence of disputes.

6. The surveyor shall be obliged, when surveying any farm or piece of ground, to provide himself with a copy of the inspection report; he shall be bound to compare the beacons pointed out to him with those described in the inspection report, and to report to the Surveyor-General any discrepancy discovered by him. Inspection report to be compared with beacons pointed out

A copy of the inspection report used by him shall be attached to the diagrams to be sent in by him. and to be attached to diagram.

7. The surveyor shall be obliged to inspect at the time of the survey the title-deeds of the grounds. No farm or piece of ground shall be surveyed except for the owner or owners thereof. Surveyor to inspect title-deeds and to survey for owner only.

8. Should several owners together possess undivided a farm or portion thereof, the surveyor shall survey such farm or such portion thereof in its entirety. Survey of undivided farm.

Should the owners desire to divide that ground, then the diagrams shall be accompanied by a proper deed of division signed in the presence of witnesses by all parties interested. Diagrams of a division to be accompanied by deed of division

In the case of a surveyed farm belonging to different owners being divided according to existing beacons, the diagrams shall be accompanied by a certificate, signed by all parties interested, in which they declare that they are satisfied with the beacons pointed out to the surveyor or erected by him. and certificate that owners are satisfied with beacons.

9. The surveyors shall be bound in the survey of farms or pieces of ground to take over the beacons from persons acquainted with same, as far as possible from the old inspectors. Pointing out of beacons, if possible, by old inspectors.

Cases in which the surveyor has to cut off pieces of ground of a defined size, and therefore has to fix the beacons himself, are excluded from above rule.

In case the farms are larger than 3,750 morgen, it shall be a definite requirement that the beacons shall be pointed out by one or more of the old inspectors, or by other impartial persons, who can declare under oath that the beacons pointed out are the actual inspection beacons.

Affidavit as to beacons to accompany diagram.

An affidavit that the beacons pointed out to the surveyor are the actual inspection beacons of the farm shall accompany the diagram; without this affidavit no diagram shall be confirmed.

Inspectors obliged to point out beacons.

The inspectors are obliged at all times to point out the beacons of a farm.

Cape measure only to be used.

10. No other measures shall be used for the surveys in the South African Republic than the Cape measure.

Checking of surveyor's chain.

Before commencing any survey the surveyor shall compare his chain with the standard obtainable upon application at the Surveyor-General's office.

Base to be measured twice.

11. Each base shall be measured at least twice, and should a difference be discovered of more than 1 in 7,500, he shall be obliged to remeasure the same. The base for the survey of single farms shall not be shorter than 150 roods, and that for the survey of several adjoining farms not less than 250 roods. In addition thereto, in case of larger blocks, it shall be requisite to measure a test base of not less than 200 roods.

Its length.

Triangulation.

12. The apexes of all triangles used in a survey for the calculation of the points shall be not less than 30 degrees, nor greater than 150 degrees.

The apex of a triangle intended for the checking may be less, but the co-ordinates obtained from such triangles may not be used for the calculations.

Erection of beacons by surveyor.

13. The surveyors shall be obliged to build up the beacons of farms or pieces of ground surveyed by them which have not as yet been erected, three feet high of stone or brick, or to see to it that such is done.

No diagram shall be approved unless it be certified thereon that all beacons have been properly erected according to law.

Comparison of survey with that of adjoining surveyed farm.

14. Should one or more boundary lines of a farm about to be surveyed adjoin a previously surveyed farm or farms, the surveyor shall provide himself with the diagrams of such farm or farms, or certified copies thereof, in order that he may compare his survey with same, and should he discover a discrepancy exceeding 1 in 1,000, or in the case of a curvilinear boundary, a difference of more than 10 roods in the position of the lines, he shall notify such discrepancy to the Surveyor-General.

15. All diagrams of original surveys of farms or portions thereof shall be drawn on good draughting paper of a size of about 20 inches by 14 inches. Diagram paper.

Those of erven situate in villages shall be drawn in triplicate on good paper of foolscap size.

16. All diagrams of original surveys of farms or portions thereof, or of erven or pieces of ground, shall be drawn in triplicate. Diagrams to be in triplicate.

Diagrams of portions of farms already surveyed, pieces of ground, or erven, shall be drawn in duplicate. Of subdivisions in duplicate.

17. The scale according to which diagrams shall be framed shall be the following, save in cases where, with consent of the Surveyor-General, some other scale shall, for good reasons, have been adopted by the surveyor:— Scale of diagrams.

Town erven, 100 feet to 1 English inch.

Town plans, 200 feet to 1 English inch.

Pieces of ground smaller than 10 morgen, 200 feet to 1 English inch.

Pieces of ground 10 to 500 morgen, 100 Cape roods to 1 English inch.

500 to 5,000 morgen, 200 roods to 1 English inch.

Pieces of ground larger than 5,000 morgen, 400 roods to 1 English inch.

18. The following data shall have to appear on the diagrams:— Data to appear on diagrams.

(a) The length of the lines from beacon to beacon.

(b) The size of all interior angles.

(c) The length of the imaginary line connecting two beacons if the boundary between two beacons is not a straight line; as also the angles formed by such imaginary line with the other boundary lines.

(d) The extent of ground situate between the boundaries.

In case the boundary line between two or more beacons is curvilinear, the extent included between the straight lines connecting the beacons, and also the extent within the boundaries.

(e) The co-ordinates of all beacons obtained by survey.

19. These data shall not be inscribed within the figure itself, but shall be specified separately on the diagram. Where data to be written.

20. The angles on the diagrams shall be stated within the nearest 10 seconds. Angles and sides.

The length of the lines shall be stated to the nearest two decimal points, in Cape roods or feet, according to the scale used in framing the diagram.

For pieces of ground less than 10 morgen, in Cape feet; above that, in Cape roods.

The extent of pieces of ground less than 10 morgen shall be stated in morgen, square roods, and square feet; for larger pieces of ground, only in morgen and square roods. Extent.

21. Every figure representing a surveyed piece of ground or farm shall be covered with a uniform light colour. Colouring.

The topography (roads, spruits, houses, etc.) shall be shown on the diagram in colours different from that of the figure.

Topography.

22. The topography of the ground shall be drawn on the diagrams with neatness and accuracy. The true situation of the most prominent mountains or mountain ranges, of the houses, springs, conspicuous natural objects, the principal situations of rivers, spruits, roads, telegraph lines, etc., shall be defined by actual observations in the field.

Should a river, kloof, krans, wagon road, or footpath, etc., form the boundary of a farm, then such shall be accurately surveyed in its entirety, and drawn on the diagram in a clear manner.

The topography, especially in the vicinity of beacons, shall be reproduced as accurately as possible. All special landmarks whereby the place and the position of a beacon can be identified shall be stated on the diagram.

No pricking through of topography, rivers, spruits, roads, etc., shall be permitted on any diagram or plan except those of beacons or stations.

Information to be supplied by diagrams.

23. The true north, the direction of the lines of the adjoining farms, where known, the names of the adjoining farms, as well as the names of rivers, spruits, mountains, hills, etc., within the farm, or in the immediate vicinity thereof; the names of the ward and the district in which the farm is situate, of the person by whom the beacons were pointed out, the registered number of the farm, the names of the registered owners, date of survey, shall appear upon the diagram, and if the diagram represents a portion of a surveyed farm the prescribed form shall be filled in by the surveyor.

River boundaries, etc.

24. Should a river, road, wall, etc., constitute the boundary of a farm or piece of ground, it shall be expressly stated on the diagram whether the outer or inner side or the middle thereof is adopted as the boundary of the farm or piece of ground.

Sub-divisional diagrams.

25. No portion of the surveyed farm may extend beyond the limits of the old diagram.

The data on the new diagram shall in all respects be brought in accord with the data of the old diagram, his own (eigen) figures may be marked on the diagram in red ink. In those cases in which the distrepancy between the old and the new survey exceeds 1 in 1,000, or, if in cases of curvilinear boundary, the discrepancy between the position of the lines exceeds 10 rods, such discrepancy shall be reported to the Surveyor-General.

Plotting.

26. The plotting of each diagram shall be executed with care, and must agree with the values given for the sides and angles.

All boundaries shall be shown only by a thin intermittent line.

The imaginary lines mentioned in article *eighteen*, letter (c), shall be shown by dotted lines.

27. If any diagram consists of portions of more than one farm the different portions shall be clearly shown.

Portions of several farms.

Likewise the extent and all other data of each portion.

The different portions together may not be greater than a full farm of 3,750 morgen, save where they are portions of farms which are themselves greater than 3,750 morgen.

28. In case a diagram is made of a sub-division of a farm or piece of ground and this has no boundary common with the whole piece of ground, the surveyor shall on such diagram also state, besides the data already specified (see article *eighteen*) the data of a quadrangle formed by two beacons of the piece of ground, with two beacons of the original diagram from which the deduction has to be made.

Connections to be shown.

If a side of a sub-division forms a portion of the side of the diagram of the original survey, then only the distance between the ends of the two sides need be stated.

The data may be stated at the angles and lines.

29. A separate diagram shall be sent in of each farm or piece of ground having a separate title-deed. Portions of two or more farms (see article *twenty-seven*) may be drawn on one diagram, provided they do not, together, constitute more than a full farm (3,750 morgen).

Separate diagrams for portions held under separate title, except under article *twenty-seven*.

30. No erasures shall be allowed in any diagram.

No erasures.  
General plans.

31. A general plan of all surveys of more than one farm, portions of surveyed or unsurveyed farms, or pieces of ground made at the same time, shall be sent in to the Surveyor-General's Office, duly signed by the surveyor, and framed on a scale of 400 roods to an English inch, giving the points of triangulation. These general plans shall be neatly executed on good canvas-backed drawing paper. In addition to sides, angles, and size of the various farms or pieces of ground, they shall have to contain all rectangular co-ordinates of all points used at the survey.

The topography shall be carefully given in such plans in the same way as in the case of single diagrams.

Topography.

A general plan or tracing of all surveys of portions of surveyed farms showing the situation of the portion or portions in the farm shall accompany the separate diagrams of the portions framed on the same scale as the original diagram. No topography is required in such plan; only one copy of this plan is required.

No single diagram shall be approved if the general plan has not yet been sent to the Surveyor-General's office.

The general plan of the surveys of towns shall be sent in in triplicate on a scale of 200 feet to 1 English inch, and must be approved before any diagram of an erf can be passed.

General plan of surveys of towns.

32. The following rules shall be followed with regard to the tabulation of the co-ordinates on diagrams and general plans:—

Rules as to tabulation of co-ordinates.

- (a) The co-ordinates stated on one and the same document shall always refer to the same axes;
- (b) they shall be expressed in Cape measure, and shall be given in no other unit of the Cape measure than the one in which the sides are expressed;
- (c) the algebraic signs + or — shall be written in front of each  $y$  and  $x$ , and it shall be clearly stated which co-ordinates are  $y$ 's and which are  $x$ 's. In tabulating the co-ordinates the  $y$ 's shall always appear in the left, and the  $x$ 's in the right, hand column;
- (d) the  $y$  axis shall always be the true north. In surveys of blocks, farms, or pieces of ground, the true north shall be fixed by astronomical observations; it is further recommended to do the same also as far as possible on surveys of single farms;
- (e) the positive direction of the axes, to which co-ordinates given on any document are referred, shall be such that the positive angles increase in the same direction as that in which the angles on horizontal theodolite circles of from 0 degrees to 36 degrees increase.

Inconsistencies.

33. All diagrams before they are signed by the Surveyor-General shall be examined by the examiner of diagrams as to their consistency (of zij bestaanbaar zijn).

No diagrams, except triangles, parallelograms, and quadrangles with two parallel sides shall be returned by the Examiner of Diagrams as inconsistent, if the inconsistency does not exceed the following maxima:—

*A. Mutual inconsistency of sides and angles.*

Inconsistency of sides and angles.

The sides and angles of a diagram shall be deemed mutually inconsistent if they make it possible for any beacon of the ground represented by such diagram to be located in two different positions, the extent of this inconsistency is defined by the length of the line which connects these two positions; and which is called the "line of displacement."

$$l = \frac{\frac{1}{2} p + 200 n}{10,000}$$

in which

$p$  = perimeter of the diagram which is being examined;  
 $n$  = the number of sides of the diagram which is being examined and which shall be calculated in roods or feet according as the sides of the diagram are expressed in roods or feet.

*B. Inconsistency of the area of rectilinear figures with their sides and angles.*

Inconsistency of areas.

Should the sides and angles of a diagram be inconsistent, the application of such diagram to the ground should give a figure which has  $(n + 1)$  sides, of which the larger side will be the line of displacement above referred to, and as this line of displacement can be adjoined to each of the beacons, various figures of  $(n + 1)$  sides will be obtained.

These  $n$  figures will similarly have different areas, the differences between which will have a limit or maximum extent of  $\frac{1}{2} pl'$ , in which  $l'$  is the line of displacement and  $p$  the perimeter.

Therefore by inconsistency in regard to the extent of a surveyor's diagram shall be understood the various differences between it and the  $n$  extents above referred to, and the diagram shall be returned for amendment should any one of these differences exceed the values of  $s$  as well as  $s'$  in the following formula:—

$$s = \frac{1}{6} pl + n$$

$$s' = \frac{1}{2} pl' + n$$

in which

- $p$  = perimeter of the diagram being examined;
- $l$  = maximum inconsistency of sides and angles permissible as above;
- $l'$  = the actual inconsistency of the sides and angles of the special diagram which is being examined;
- $n$  = the number of sides of the diagram,  $n$  being calculated as square roods and square feet, according as the sides of the diagram shall have been expressed in Cape roods or in Cape feet.

34. The following forms shall be used in the description of diagrams:—

Description of diagram of farm.

A.

*Upon an original survey of a farm or portion thereof.*

The above figure A to \_\_\_\_\_ represents

No.

containing \_\_\_\_\_ morgen square roods, situate in the District \_\_\_\_\_ Ward \_\_\_\_\_ South African Republic, and bounded as hereabove mentioned.

The beacons were pointed out by \_\_\_\_\_ and have been properly erected according to law.

Notice of this survey has been given according to law to the adjoining landowners.

Distance from the town \_\_\_\_\_ about \_\_\_\_\_ miles.

Surveyed for the \_\_\_\_\_ in \_\_\_\_\_ owner \_\_\_\_\_ 18 \_\_\_\_\_,

By me, \_\_\_\_\_

.....  
Surveyor.

B.

*Upon survey of a portion of an already surveyed farm or piece of ground.*

Above figure A to \_\_\_\_\_ represents a \_\_\_\_\_ Description of sub-divisional diagram.  
portion \_\_\_\_\_ of the farm \_\_\_\_\_  
No. \_\_\_\_\_ District \_\_\_\_\_ Ward \_\_\_\_\_  
South African Republic, and contains \_\_\_\_\_  
morgen \_\_\_\_\_ square roods, and bounded as hereabove mentioned.

The whole farm was originally granted in freehold to in quitrent according to title-deed deed of transfer

No. dd.  
The beacons pointed out by  
have been properly erected according to law.  
Surveyed in 18

By me,  
.....  
Surveyor.

I, Registrar of Deeds, hereby  
certify that this diagram belongs to the title-deed  
dd. 18 deed of transfer  
in favour of this day issued  
Deeds Registry Office, 18 .

.....  
Registrar of Deeds.

C.

*Upon survey of town erven or pieces of ground situate  
in towns.*

Description of diagram of erven.	Above figure A to	represents
	Erf No.	in extent square
	roods, town	square feet, situate in the
	as above mentioned.	district bounded

Surveyed by me in 18 .

.....  
Surveyor.

Surveyor's  
records.

35. Every surveyor in respect of all surveys, whether of private or Government grounds, shall preserve the following documents in a clear and intelligible form, and shall be obliged to produce the same to the Surveyor-General upon his request:—

- (a) His original field-book or certified true copy thereof.
- (b) His original working plan or certified true copy thereof, on which, in addition to all beacons, boundaries, and topography, the base, test base (if such has been measured), and all stations, triangles, and traverse lines used by him for the determination of beacons and curvilinear boundaries, shall be shown; the same names, letters, or numbers shall be given to the stations and beacons on the working plan as are given in the field-book.
- (c) The surveyed and reduced (herleide) length of each base and test base (and the computed length of this latter), besides that of all surveyed lines.
- (d) A list of angular readings used for determining the positions of beacons and angles of each triangle as used in the computation.

(e) The co-ordinates of all stations used for determining the position of beacons where a survey has been done by means of triangulation.

(f) His original calculations or certified true copy thereof.

36. No diagrams shall be approved at the Surveyor-General's office unless the following Government charges in revenue stamps be affixed thereto:—

Stamps on diagrams.

(*Tariff repealed by Act No. 15, 1909, Fourth Schedule.*)

37. Diagrams which do not agree with the existing and lawfully recognised beacons may be cancelled upon written request of the owner or his authorised agent in accordance with article seven of Law No. 9, 1891. The new diagrams which are to replace the faulty ones shall be accompanied by a declaration and consent of the adjoining owners.

Diagrams not agreeing with existing lawful beacons may be cancelled.

*Form of Declaration and Consent.\**

I, the undersigned, owner of the farm hereby declare that the beacons as pointed out on the day of 18, to the surveyor are the lawful beacons recognised by me between my aforesaid farm and the farm

I further consent to the cancellation of the existing diagram of the farm and to the framing of a new diagram in lieu thereof in accordance with the aforesaid beacons.

.....  
Owner.

Witnesses:

.....  
.....

38. This instruction is drawn up by virtue of article three of the Instructions of the Surveyor-General, and shall be observed in all surveys made after ; all previous instructions are hereby repealed.

Authority for these instructions. Repeal.

\* See amended Art. 7 of Law No. 9, 1891, which makes the form obsolete.

SECOND VOLKSRAAD RESOLUTION, 11th May, 1891,  
Article 38.\*

(Accepted as notice by First Volksraad Resolution, 14th May, 1891, Article 55.)

Provisions as to liability of Government for losses sustained by reason of defective roads.

The Second Volksraad having considered Government Minute of the 27th April, 1891, now on the order, and Executive Council Resolution, article *one hundred and forty-five*, therein contained;

Resolves to approve of the regulation and provision contained in said Executive Council Resolution, and to declare the same to be valid in law and of force from the date of coming into operation therein mentioned, until the Second Volksraad may further decide thereon.

Said Executive Council Resolution reads:—

On the order: Minute R.2032/91 containing correspondence with the Government Engineer and Architect as to making and maintenance of roads.

The Executive Council having taken consideration of Law No. 7, 1889, on the making and maintenance of roads,

Considering that it has been found urgently necessary to make certain provisions and regulations in connection with said law;

Considering that the Government has been instructed by Resolution of the Hon. Volksraad, article *one thousand two hundred and thirty-six*, dated 11th August, 1890,† to make provisions and regulations in respect of all matters for which no provision has been made by the Volksraad, and which are of such urgent nature that they could not remain over until the next session of the Volksraad;

And considering further that no special provision is made by the Volksraad in respect of the following regulation, and that the general law does not sufficiently provide in this matter and moreover is not clear;

Resolves to provide and enact as a supplement to Law No. 7 of 1889 as follows:—

Limitation of responsibility of Government.

1. The Government is not responsible for any damage, injury, or loss arising from the tumbling or falling of persons animals or vehicles or other objects into or by reason of (door) drainage water-furrows or the prolonged open portion of covered pipes or sewers or into any other excavations made at the side of or outside the roads for leading off water or for draining of roads or for obtaining materials.

2. The Government is not responsible for any damage injury or loss caused or sustained on general public roads, unless by reason of holes made in those roads on behalf of the Government, and left without protection or warning signs.

\* Published in *Staatskoerant*, 27th May, 1891.

† Volksraad Resolution, 11th August, 1890, Art. 1236, is repealed by Trans. Proc. 34, 1901.

3. This Executive Council Resolution‡ shall come into operation immediately after publication in the *Staatskoerant*, and have force of law until further decision thereon by the Volksraad.

FIRST VOLKSRAAD RESOLUTION, 22nd May, 1891.

Article 109.\* The First Volksraad having considered Executive Council Resolution, article *two hundred and thirty-four*, dated 23rd April, 1891, now on the order,

Regulations  
re breweries  
in towns.

Resolves to approve of the same unamended.

Said Executive Council Resolution reads:—

On the Order: Minute R.16713/90, containing a request for establishing a beer brewery at Trevenna, Pretoria, and in connection therewith the discussion as to the desirability of establishing beer breweries in the towns or not;

The Executive Council having considered the consequences of establishing beer breweries as regards injury to the health of the population or otherwise;

Resolves to propose to the Hon. First Volksraad to provide that it shall not be permitted to establish beer breweries in the towns, except only with special approval of the Executive Council and as much as possible in the outskirts of the towns and subject to such regulations as the Executive Council may deem necessary and serviceable.

FIRST VOLKSRAAD RESOLUTION, 10th June, 1891.

Art. 359. The Raad . . . resolves . . . to instruct the Government to instruct all Commissioners and Sub-Commissioners through the Superintendent of Natives to see that henceforth no natives may reside on Government grounds not intended for location grounds, on such fine and penalties as the Government may deem necessary.

Natives not to  
reside on  
Government  
ground save  
in locations.

FIRST VOLKSRAAD RESOLUTION, 21st July, 1891.

Art. 1040.§ The First Volksraad having heard article *seven* of the Commission Report now on the order and the proposal contained therein, resolves to agree therewith, and to accept the proposal as a Resolution of the Raad.

Government  
may assist  
owners of  
farms unable  
to pay costs  
of survey.

Said proposal reads:—

In case it should appear to the Government that the owner of a farm or of any piece of ground is not able to satisfy the costs of survey in time and in accordance with the provisions of this law (Law on General Survey), the Government is authorised in such case to assist the owner temporarily and financially if the State finances permit such upon security of his farm or his piece of ground in such manner as it may deem expedient in his interest.

‡ This Executive Council Resolution was published for the first time in the *Staatskoerant* of 11th March, 1891.

\* Published in *Staatskoerant*, 10th June, 1891.

§ See First Volksraad Resolution, 1st June, 1893, Art. 236 (*infra*).

SECOND VOLKSRAAD RESOLUTION; 6th July, 1891,  
Article 686.

(Accepted as notice by the First Volksraad Resolution, 22nd  
July, 1891, Article 1048.)

Telegraphists  
entitled to  
weekly half-  
holiday.

The Raad unanimously agreed that a half-holiday per  
week shall be granted to the telegraphists in all offices of the  
South African Republic.

PROCLAMATION (dated 19th June, 1891).

Law No. 2,  
1874 (Weights  
and  
Measures),  
declared of  
force.

Whereas Law No. 2, 1874, for the regulation of measures  
and weights in the South African Republic has been enacted  
by Volksraad Resolution dated 14th October, 1874, article  
*one hundred and twenty-eight*; and

Whereas it has been provided by article *seventeen* of the  
said law that as soon as the standard measures and weights  
which had to be ordered under the said law should have  
arrived at Pretoria, the State President shall give notice thereof  
as well as of the different description of the same by a pro-  
clamation in the *Staatskoerant*, and shall at the same time  
fix a date upon which this law shall come into operation; and

Whereas the standard measures and weights mentioned in  
said law are now here and ready for use;

Now therefore I Stephanus Johannes Paulus Kruger,  
State President of the South African Republic, hereby pro-  
claim and notify that Law No. 2, 1874, shall be of force and  
come into operation from the 18th January, 1892.

Weights: 56 lbs., 28 lbs., 14 lbs., 7 lbs., 4 lbs., 2 lbs.,  
1 lb. (avoirdupois); 8 oz., 4 oz., 2 oz., 1 oz., 8 drams, 4 drams,  
2 drams, 1 dram,  $\frac{1}{2}$  dram.

Dry measure: 1 bushel,  $\frac{1}{2}$  bushel, 1 peck.

Measure for liquids: 1 gallon,  $\frac{1}{2}$  gallon, 1 quart, 1 pint,  
 $\frac{1}{2}$  pint, 1 gill,  $\frac{1}{2}$  gill.

Long measure: 1 yard divided into feet, inches, and into  
 $\frac{1}{10}$ ,  $\frac{1}{12}$ ,  $\frac{1}{16}$ , and  $\frac{1}{100}$  parts of an inch.

|| Published in the *Staatskoerant*. 22nd July, 1891; erroneously published in  
Lokale Wetten, 1890-93, as Art. 626.

**1892.**

## LAW No. 1, 1892.

(Being Amendment of Law No. 6, 1889.)

## GAMES OF CHANCE.

(As dealt with by Resolutions of the Hon. First Volksraad, articles *eighty-six* to *ninety-seven* inclusive, dated 11th May, 1892, and accepted and approved, unaltered by article *one hundred and forty-seven*, dated 14th May, 1892, of the said Raad.)

Amending  
Law No. 6,  
1889 : Games  
of chance.

1. In article *seven* of Law No. 6, 1889, the words “besides a fine of £5, or on non-payment, imprisonment not exceeding one month,” shall be superseded by the words “besides a fine of not less than £5 and not more than £50, according to the nature of the case, or on non-payment of the fine imprisonment not exceeding three months, with or without hard labour.”

Increase of  
penalties.

2. As two new articles, *seven (a)* and *seven (b)*, shall be inserted between articles *seven* and *eight* two articles of the following tenor :—

7a. *For text see Law 6, 1889, article seven (a).*

7b. *For text see Law 6, 1889, article seven (b).*

3. *Repealed by Ordinance 32, 1902, section one.*

4. *Repealed by Ordinance 32, 1902, section one.*

5. This amendment of law shall come into operation three months after publication in the *Staatskoerant*.¶

¶ Published in *Staatskoerant* of 25th May, 1892.

## LAW No. 4, 1892.

## FOR THE PUNISHMENT OF MOTHERS FOR CONCEALMENT OF BIRTH OF CHILDREN.

(Approved and enacted by Resolution of the Hon. First Volksraad, Article 199, dated 18th May, 1892.)

Preamble.

Whereas the concealment by mothers of the birth of their children is an act of very suspicious nature; and whereas such act is not deemed to be punishable according to the laws in force in this State; and whereas it is necessary that the same should be made punishable, it is hereby provided and enacted, as follows:—

What constitutes concealment of birth.

1. Every unmarried or deserted woman (vrouw) who gives birth to a child and who making away with the dead body of the child by secret burial or in any other way endeavours to conceal the birth of the same, is guilty of the crime of concealment of the birth of her child.

Punishment.

2. This crime is punished by imprisonment with or without hard labour, not exceeding two years.

Not necessary to prove child was born alive.

3. At the trial of a woman for the crime mentioned in article *one*, it is not necessary to prove whether the child died before, at, or after the birth.

In trials of murder of child jury may find accused guilty of concealment of birth.

4.† If a woman is brought to trial for the murder of her child and is not found guilty of that crime by the jury, the latter may, if sufficient evidence with reference thereto has been produced, find her guilty of the crime of concealment of the birth of her child; upon such finding of guilt the Court shall be competent to pass such sentence upon her as could lawfully have been passed had she been brought to trial on the charge of having committed that crime.

5. This law comes into operation three months after publication in the *Staatskoerant*.\*

† See also Ordinance 1, 1903, section 142.

\* Published in *Staatskoerant* of 25th May, 1892.

## LAW 21, 1892.

ESTABLISHING THE PRINCIPLE THAT LASHES MAY ALSO BE  
INFLECTED ON WHITE PERSONS.

(Approved and confirmed by Article 163, dated 16th May, and Article 1258, dated 23rd August, 1892, of the Resolutions of the Hon. First Volksraad.)

Whereas it is enacted by the last paragraph of article *one hundred and twenty-seven* of the Grondwet, that white persons may be condemned to corporal punishment (slagen aan den lijve) if such is expressly provided by law; Preamble.

And whereas this is at present only done by article *twelve* of Law No. 14, 1880, and by articles *one* and *two* of Law No. 5, 1888;

And whereas it has appeared necessary also to inflict lashes upon white persons for certain other crimes or offences:

Be it hereby provided and enacted as follows:—

1. Under special circumstances, in the discretion of the High Court or Circuit Court of this Republic, lashes may also be inflicted on white persons to a maximum of 50 lashes, namely, for the crimes of assault, whereby grievous bodily harm has been occasioned, robbery, housebreaking, rape, sodomy, and the repeated commission of stock thefts. Lashes may be inflicted for certain crimes. Maximum, 50 lashes.

2. The infliction of lashes on a white person sentenced thereto in terms of the preceding article shall in no case be carried out by a coloured person. Lashes on whites not to be inflicted by coloured person.

3. This law comes into operation immediately after publication in the *Staatskoerant*.†

† Published in *Staatskoerant* of 31st August, 1892

## SECOND VOLKSRAAD RESOLUTION, 2nd June, 1892,

## Article 313. \*

(Accepted as notice by First Volksraad Resolution, 10th June, 1892, Article 420.)

Closing of  
forests.

The Second Volksraad having considered the report of the Commission, and having also considered the petition from Zoutpansberg asking for consent to grant certain contracts on the forests in Zoutpansberg, now under consideration, and having also considered the necessity that the forests in the South African Republic require protection, and should not be placed under concession or contract, bearing in mind Volksraad Resolution of 1853, and further having noticed that such contracts applied for have not been duly published for three months, therefore the Hon. Volksraad has not the pleasure of approving the Committee report, but the Second Volksraad, taking into consideration that sufficient regulations already exist, whereby the Hon. Government can protect all forests in the South African Republic,

So therefore the Raad resolves to close † all forests in this State, except those forests which, in the interest of the burghers of this State, ought to be thrown open by the Hon. Government, and instructs the Hon. Government to continue to apply Law No. 15, 1880, and the regulations framed in terms of the provisions of section *two* ‡ of Law No. 15, 1880, and article *eight hundred and thirty-two* § of 1890 to all forests until such time as special circumstances necessitate alterations, then to submit the same to the Second Raad for amendment.

## ¶ FIRST VOLKSRAAD RESOLUTION, 14th June, 1892..

Surveyor at  
survey of  
farms to point  
out its bound-  
aries.

Art. 441. || The Commission Report was accepted.

Said report reads:—

Your Commission agrees with petitioners in so far that at the survey of a farm the surveyor shall be obliged to point out every boundary (lijn) to the owner or his representative if such is requested.

\* Published in *Staatskoerant*, 15th June, 1892.

† For list of forests closed, see Government Notice No. 94 of 1893 (not published).

‡ As in Minutes of Volksraad and Lokale Wetten; the figure should clearly be eleven.

§ That is V.R.R. 15th July, 1890, Art. 832, closing Kwiebiesbosch forest (not published).

¶ See F.V.R.R. 18th July, 1894, Art. 886 (*infra*).

|| Published in *Staatskoerant* of 29th June, 1892.

## SECOND VOLKSRAAD RESOLUTION, 26th July, 1892,

## Article 894. §

(Accepted as notice by First Volksraad Resolution, 11th August, 1892, Article 1106.)

The Raad resolves with reference to the petition|| now on the order to reply to petitioners that their request cannot be complied with, because claims and stands are not fixed property. Claims and stands not fixed property.

## FIRST VOLKSRAAD RESOLUTION, 29th August, 1892.

Article 1314. The First Volksraad having considered Executive Council Resolution, article *six hundred and forty-five*, dated 26th August, 1892, now on the order, resolves to approve of this Executive Council Resolution with amendment of the sentence "if such is desired by all owners" into "if such is desired by one or more of the owners." Division of farms by surveyors.

Said Executive Council Resolution reads:—

On the Order: Minute 6659/92, containing letter from the Secretary of the First Volksraad, dated 20th June, 1892, in which notice was given of a motion by Messrs. J. P. L. Lombard and J. P. Meyer.

The Executive Council, after having duly considered this matter, and after having heard Mr. J. P. Meyer personally, and seeing that the general law already makes provision in case where a farm is possessed in undivided portions and one of the owners refuses to divide;

Resolves to propose to the Hon. First Volksraad to pass a Resolution whereby the duty is imposed on surveyors to divide a farm, which is registered in the name of different owners in undivided portions at the survey thereof under the general survey, if such is desired by all owners. For the survey and division the surveyor shall then charge according to the tariff of Law No. 9, 1891.

§ Published in *Staatskoerant* of 17th August, 1892.

|| Petitioners requested that transfers of stands and claims should be passed by admitted conveyancers only.

1893.

## A CONVENTION \*

BETWEEN HER MAJESTY THE QUEEN OF THE UNITED KINGDOM OF GREAT BRITAIN AND IRELAND AND THE SOUTH AFRICAN REPUBLIC.

Whereas Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and His Honour the State President of the South African Republic, as representing the Government of the said Republic have agreed that it is expedient that they should enter into a Convention relative to the affairs of Swaziland in substitution of the Convention of 1890, which terminates on the taking effect of the arrangements contemplated in this Convention :

Now, therefore, Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and His Honour the State President of the South African Republic as representing the Government of the said Republic, hereby consent and agree that the following articles, accepted finally by and between Her Majesty and His Honour, shall, when duly signed, sealed and executed by Her Majesty's High Commissioner for South Africa on behalf of Her Majesty and by His Honour the State President of the South African Republic on behalf of the Government of the said Republic, and when duly ratified by the Volksraad of the South African Republic, constitute and be a Convention by and between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and the South African Republic.

Article 1. The Convention of 1890 between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and the South African Republic, with the exception of articles *ten* and *twenty-four* thereof, shall, on the 8th day of August, 1893, cease and determine and the articles of this Convention shall have force and effect ; but the provisions of all or any of the articles of the said Convention of 1890 may, with the consent of Her Majesty's High Commissioner and the State President of the South African Republic, be continued in force for a further period, to be mutually arranged, pending the completion of the Convention or organic Proclamation provided for in article *two* of this Convention.

2. Her Majesty's Government agrees, notwithstanding anything to the contrary contained in articles *two* or *twelve* of the Convention of London of 1884, or in the Convention of 1890, that the Government of the South African Republic may enter into negotiations with the Swazi Queen Regent and Council, with a view to obtaining a Convention or an organic Proclamation by which rights and powers of jurisdiction, protection and administration over Swaziland, without incorporation thereof into the said

\* See Convention of 1894 (*infra*).

Republic, may be conferred upon and secured to the last mentioned Government; but no such Convention or organic Proclamation would be entitled to recognition from Her Majesty's Government unless the said Government were satisfied:

(a) That the Swazi Queen Regent and Council understood the nature, terms, articles and conditions thereof.

(b) That just provision had been made for the protection of the Swazi natives with regard to the management of their own internal affairs according to their own laws and customs, including the laws and customs of inheritance and succession, in so far as the said laws and customs are not inconsistent with civilised laws and customs, or with any law in force in Swaziland made pursuant to such Convention or organic Proclamation, and with regard to their continued use and occupation of land now in their possession, and of all grazing or agricultural rights to which they are at present entitled.

3. In the event of any such Convention or organic Proclamation as aforesaid being approved of by Her Majesty's Government, the following articles of this Convention shall be binding upon the Government of the South African Republic.

4. All British subjects residing in Swaziland or having in Swaziland any property, grant, privilege, or concession, or any right, title to, or interest in any property, grant, privilege, or concession shall be secured in the future enjoyment of all their rights and privileges, of whatsoever nature or kind in like manner as burghers of the South African Republic, but shall obey the Government and conform to the laws established for Swaziland.

5. Every white male, who shall have been a bona fide resident in Swaziland (even if temporarily absent from Swaziland) on the 20th April, 1893, shall become and be entitled to all the political privileges of a full burgher of the South African Republic as though he had been born in that Republic; provided, however:

(a) That every white male shall make application in writing to an officer to be appointed at Bremersdorp, in Swaziland, by the Government of the said Republic, to have his name enrolled upon a list of persons so entitled, and upon satisfactory proof by a true and solemn declaration of his bona fide residence in Swaziland on the aforesaid day, and such declaration to be made within six months from the date of public notification of the appointment of such officer as aforesaid, such officer shall be bound to enroll his name on such list, and such list shall be the list of burghers of the South African Republic so admitted under this head of this article to the privileges aforesaid.

(b) That every white son of any person admitted to the privileges of a burgher under the preceding paragraph of this article, which son shall have been a minor on the aforesaid date, shall be entitled to the like political privileges which he would have had if his father had been a natural-born burgher of that Republic and he himself had been born therein, provided that the right under this section shall be

claimed by such minor from the Government of the South African Republic by notice in writing within twelve months from his attaining his majority.

(c) That every person admitted as a burgher shall, while resident in Swaziland, be entitled to register his vote at any election when and where a burgher resident in some convenient district of the South African Republic adjoining Swaziland would be entitled to vote, such district to be determined by the Government of the South African Republic, and if thereafter he shall come to reside in any district of the South African Republic such person shall there be entitled to register his vote.

6. The equal rights of the Dutch and English languages in all courts of Swaziland shall be maintained. This provision shall be in force so long as the administration of Swaziland by the Government of the South African Republic continues under the provisions of the Convention or Organic Proclamation referred to in article *two*.

7. The Customs duties shall not be higher in respect of any article imported into Swaziland than the duty thereon according to the tariff at present in force in the South African Republic, or the tariff at present in force in the South African Customs Union, whichever is now the higher. This provision shall be in force so long as the administration of Swaziland by the Government of the South African Republic continues under the provisions of the Convention or organic Proclamation referred to in article *two*. No individual or individuals, corporation or company shall have exclusive rights or privileges with regard to imposition of or exemption from Customs duties on goods.

8. The Government of the South African Republic agrees to prohibit the sale or supply of intoxicating liquor to Swazi natives in Swaziland.

9. No railway beyond the eastern boundary of Swaziland shall be constructed by the Government of the South African Republic save under the provisions of a further contemplated Convention between Her Majesty the Queen and the South African Republic; or with the consent of Her Majesty's Government.

10. Articles *ten* and *twenty-four* of the Convention of 1890 are here again set forth for convenience of reference.

“10. The Government of the South African Republic withdraws all claim to extend the territory of the Republic or to enter into treaties with any natives or native tribes to the north or north-west of the existing boundary of the Republic, and undertakes to aid and support by its favouring influence the establishment of order and government in those territories by the British South Africa Company within the limits of power and territory set forth in the Charter granted by Her Majesty to the said Company.”

“24. Her Majesty's Government consent to an alteration of the boundary of the South African Republic on the east so as to include the territory known as the Little Free State within the territory of the South African Republic.”

11. Her Majesty's Government reserves the power of exercising diplomatic representation in favour of Swazi natives or British subjects in case any provision of the Convention or organic Proclamation referred to in article *two* shall not be fairly and faithfully observed.

12. This Convention will be ratified \* by the Volksraad of the South African Republic on or before the 30th day of June, 1894, and in default of such ratification this Convention shall be null and void.

Signed and sealed at Capetown, this first day of November, 1893.

(Sgd.) HENRY B. LOCH,  
High Commissioner for South Africa.

Signed and sealed at Pretoria, this eighth day of November, 1893.

(Sgd.) S. J. P. KRUGER,  
State President of the South African Republic.

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\* Ratified by F.V.R.R. 30th June, 1894, Art. 658.

LAW No. 1, 1893.

(Being Amendment of Law 13, 1870.)

CONTAINING CERTAIN REGULATIONS TO BE OBSERVED BY  
TRAVELLERS, TRANSPORT RIDERS, AND TREKKERS.

(Approved by Resolution of the Hon. First Volksraad,  
Article 183, dated 25th May, 1893.)

Each farm  
subject to  
outspan.

1. Every farm shall be subject to one outspan. Farms adjacent to a proclaimed transport road shall be subject to a suitable (bestaanbare) outspan to be beaconsed off by the owner or lessee.

Its size.

The size of an outspan shall be determined according to the size of the farm, estimated on the basis that a full farm of 3,750 morgen shall be subject to an outspan of 50 morgen in extent.

Proclaimed  
transport  
roads.

2. The transport roads shall be proclaimed by the Honourable Government. The width of a proclaimed road shall be 30 feet, with this proviso, that transport riders shall, where required and where the circumstances make it necessary, have the right to turn out of the road 30 yards to one side or the other at their own responsibility, provided that they occasion no damage to fences or other constructions or to cultivated land (handen of veldarheid).

Travellers to  
keep to road.

3. Each traveller and transport rider shall be compelled to keep within the 30 feet of the proclaimed transport road, except in cases provided for in article *two*, and at the same time shall be bound to keep strictly within the limits of the outspans along proclaimed transport roads as defined in article *one*.

Transport  
riders to keep  
to proclaimed  
roads.

4. Transport riders are forbidden to travel with or without loaded wagons along roads other than those proclaimed, unless such person is obliged to leave the road in order to get to his dwelling.

Only twenty-  
four hours' delay on  
outspans.

5. No one shall be permitted to delay longer than 24 hours at an outspan, unless it is made impossible for him by accidents, swollen rivers, or other unforeseen circumstances, to continue his journey within that time.

Penalties.

6. Every contravention of the above articles shall be punished by a fine not exceeding £5, besides compensation to the owner or lessee, to whom also the half of the fine levied and paid shall be awarded.

Outspan for  
trekkers.

7. Every owner of ground alongside a trekkers' road (which is not a proclaimed transport road) shall be subject to an outspan for trekkers on the basis of 100 morgen (that is about 1,000 yards square) for a full farm of 3,750 morgen, to be reduced in proportion to the size of the farm; as also to the granting of facilities alongside any trekkers' road for the grazing or trekking of stock running loose to a distance not

Grazing or  
trekking of  
stock.

exceeding 300 yards per full farm of 3,750 morgen, to be reduced in proportion to the size of a farm, but in any case the width shall not be less than 150 feet on the one side or the other of the road, to be pointed out by the owner if so required (des vereischt door de eigenaar te worden aangewezen) (in case of dispute between the owner and trekkers, the Landdrost, Field Cornet, Assistant Field Cornet, or Resident Justice of the Peace, shall decide), and to watering of such stock in any river, spruit, or pool, situated alongside the trekkers' road, artificial dams used for the irrigation of gardens and lands (landerijen) being excepted.

Decision in case of disputes.  
Watering of trek stock.

8. No loose stock shall be driven through the veld of any farm. It shall, however, be permissible for great and small stock to proceed across a farm slowly grazing, provided (they keep—Trs.) within the limits prescribed by article *seven*, along the side of any public road, which side the owner or lessee may cause to be pointed out if he shall so choose, and they shall not trek longer than a day for a distance of two hours on foot, and provided that no damage shall be occasioned to any dam or water-furrow, garden or cultivated land (zaailand), by such grazing of stock trekking outside the road.

No stock to run loose.  
Trekking stock may graze along road.  
Distance of trekking each day.

9. Such stock may not intermingle with stock of the owner or lessee which may be grazing on such farm. Trekkers or travellers shall, however, have the right to drive out of the way of their stock such of the owner's stock as may be grazing on the outspan or within the limits defined by article *seven*.

Intermingling of stock.  
Owner's stock may be driven off outspan.

Upon contravention hereof the owner of such trek stock shall be liable for such damage as may accrue to the owner or occupier of the ground, to be awarded by the local official, besides a fine not exceeding £7 10s., according to the nature of the case.

Damages and penalty.

The half of the fine inflicted and paid shall be awarded to the owner or lessee of such farm.

10. In cases where cultivated lands, gardens, or orchards are or shall be laid out within the limit of 300 yards mentioned in article *seven*, the owner, lessee, or occupier of the ground shall be obliged to have the same enclosed properly, in default whereof he shall not be entitled to compensation for damage occasioned by the stock whilst proceeding and grazing along the trek road.

Fencing of gardens, lands, etc.

11. The owner or lessee shall be entitled to alter the route of the general trek road across his farm, provided that such trek road does not entirely diverge from the direction of the trekker's destination or is not impracticable (onbestaanbaar) for the trekker, such as across mountains or stretches of veld difficult and injurious to the stock.

Altering route of trek road.

*\* Should a dispute arise, the Landdrost of the district shall decide in consultation with the Field Cornet of the ward, of which decision notice shall be given by the Landdrost to the Chief of Public Works.*

How disputes are to be settled.

\* The paragraph in italics is substituted by Law No. 22, 1894, Art. 3.

Appeal to Government.

\* *The parties may appeal from this decision to the Government. The request for setting aside or amending such decision of the Landdrost shall set out the grounds, and be transmitted in writing to the Chief of Public Works, who shall append his report thereon, and send it to the Government.*

Trekkers along transport roads.

12. Trekkers with great and small stock trekking along a proclaimed transport road shall enjoy the same privileges as are defined in article seven of this law.

Watering of trek stock.

13. The owner, lessee, or occupier of a farm shall be obliged to allow free watering for trek stock along rivers, spruits or pans situated within 300 yards of the one or other side of the trek road.

Delay at outspan.

14. It shall not be permitted to any trekker to remain longer than 24 hours at an outspan without leave of the owner or occupier, unless it is made impossible for him to trek further by reason of accidents, swollen rivers, or other unforeseen circumstances. Upon contravention hereof, his stock may be sent to the pound.

Trek road over town lands.

15.† In respect of the trekking with great or small stock over village or town lands, as also in respect of transport riders and travellers, the Government (or town boards where such have been established) shall be obliged and bound to make sufficient provision for trekkers, transport riders, and travellers as regards roads and outspans.

Jurisdiction

16. The Landdrosts, Special Landdrosts, Field Cornets, Assistant Field Cornets, and Resident Justices of the Peace shall have jurisdiction to decide all contraventions falling under the provisions of this law.

Repeal.

17. Law No. 13, 1870, and all previous Volksraad Resolutions concerning outspans in conflict with this law are hereby repealed.

18. This law comes into operation on 1st November, 1893.

\* The paragraph in italics is substituted by Law No. 22, 1894, Art. 3.

† Additions to this Article were made by Law No. 19, 1896, which law has been repealed by Ordinance No. 23, 1905, section 1.

LAW No. 2, 1893.

CONCERNING THE BANKS IN THE SOUTH AFRICAN REPUBLIC.

(Approved and enacted by Resolution of the Hon. First Volksraad, Article 216, dated 29th May, 1893.)

1. Every bank doing business in the South African Republic on the date of this law coming into operation shall be entitled to a permit from the Government authorising it to issue bank notes, subject to the provisions of this law.‡
2. No bank which shall be established in the South African Republic after the date of this law coming into operation nor any private person shall be entitled to make or put in circulation (its or his—Trs.) own bank notes without having previously obtained a permit for that purpose from the Government, which shall make the necessary regulations for obtaining such permits.
3. When any bank in the South African Republic ceases to issue bank notes or fails to pay its bank notes in legal coin, its right to issue bank notes shall immediately determine and shall in the last case not be renewed.
4. The total amount of bank notes put in circulation by any bank shall not exceed its paid-up capital.
5. Bank notes of banks carrying on business in the South African Republic, which bank notes are not payable at Pretoria or at any other place in the South African Republic, shall not be made or put in circulation.
6. No bank note shall be made or put in circulation within the South African Republic for any amount less than £1 sterling.
7. Every bank which issues or shall have issued bank notes within the South African Republic shall at all times have in hand at its head office in this Republic, or at its head office and branch offices both within this Republic, cover (dekking) in legal coin equal to 33½ per cent. of the total value of all bank notes in circulation at the time, and for the balance other available (voorhanden) assets in this Republic.
8. Every bank which issues or shall have issued bank notes shall keep a proper record of the numbers and value of the same.

Existing banks entitled to permit.

Banks established after date of law and private persons require permission from Government.

When right to issue bank notes shall cease.

Limit of notes in circulation.

Bank notes must be payable within Republic.

No bank note for less than £1.

How and where bank notes are payable.

Cover for bank notes issued.

Record of notes issued.

‡ As to licences, see Ordinance No. 23, 1905, section *thirteen*, and Act No. 15, 1909, Second Schedule, item 7.

Inspection by  
Government  
officials.

9. Every bank shall submit to the officials to be appointed by the Government all account books concerning the issue of bank notes and the cover in specie, and shall allow such officials at all reasonable times to inspect the said books and to examine the cover in specie.

Stamp on  
notes.

10. *Superseded by Trans. Proc. No. 12, 1902, section thirty-five.*

Penalties.

11. For contravention of the provisions of this law the following fines shall be inflicted:—

(a) For the making or putting in circulation of bank notes not in accordance with the provisions of this law, and for neglecting to have the same stamped, as prescribed hereby, a fine not exceeding £100 sterling for each note.

(b) For not having in hand cover in gold of the fixed amount a fine not exceeding an amount equal to the amount of the deficit for every day or part of a day during which the cover is less than the fixed amount.

(c) For making incorrect statements of the amount or the value of notes in circulation, or of the amount of the cover in gold, a fine not exceeding £100.

(d) For making intentionally false or fraudulent statements of the amount or of the value of notes in circulation, or of the amount of the cover in gold; every person who makes or signs such statement shall be punished by imprisonment, with or without hard labour, for a term not exceeding three years.

(e) For furnishing the Government with a false statement (other than the statements mentioned in the two preceding sub-sections), or for contraventions of any other provision of this law, a fine of from £10 to £500 sterling or imprisonment with or without hard labour, not exceeding one year.

(f) Besides the fines and punishments aforesaid the Government shall have the power to withdraw the right to issue bank notes from the bank concerned.

(g) The Government may award a reward to informants out of the recovered fines.

Bank must  
furnish  
Government  
with name of  
person  
responsible  
for state-  
ments, etc.

12. Every bank shall from time to time notify to the Government the name of a responsible person or responsible persons for each of its branch offices and offices, whose duty it will be to supply the different statements, tables, and the balance-sheet mentioned in this law, and he or they shall provide the same with his or their signature.

If any bank does not comply with the regulations of this article, the Government shall have the right to withdraw the permit for the making and putting in circulation of bank notes, after having heard or called up (opgeroepen) the bank.

Interpreta-  
tion of certain  
words.

13. For the purpose of this law, the word "bank" will include any company, society, partnership, or person doing any business which is usually done by bankers; and the word "issue" or "putting in circulation" shall include, *inter alia*, the payment or the deposit as security of any bank note by

the bank responsible for the payment of the amount thereof, or by any other bank or by any agent of a branch office or official of such bank, and this whether such note has or has not been issued previously at the same or at any other place.

14. All bank notes which are in circulation on the day of promulgation of this law may remain in circulation until they are deposited at, or received by, the bank which is bound to pay the amount thereof, or by any other bank, or by any branch office, agent, or official of such bank, and shall not be again put in circulation by said banks, branch banks, agents, or officials: provided that nothing in this article contained shall prohibit the putting in circulation of such note if by its tenor it is made payable in this Republic, and is stamped in accordance with the provisions of this law.

Provisions as to notes already in circulation.

15. All bank notes now in circulation which have not been issued in accordance with the provisions of this law shall be withdrawn after a certain day to be fixed by Government Notice in the *Staatskoerant*.

Further provisions.

16. No bank notes put in circulation by any institution established or represented in the South African Republic shall be accepted in payment in the Government offices.

Bank notes not accepted in Government offices.

17. As soon as possible after the expiration of each month, each fortnight, or each week, at the option of the Government, every bank shall send in to the Government a summarised balance-sheet, containing such particulars with reference to the transactions of its offices or branch offices in the South African Republic, and framed in a form to be approved of by the Government. Moreover, every bank shall, as soon as possible after the expiration of its financial year, send in to the Government a balance-sheet, a profit and loss account, and a report for the past year. These documents shall be substantiated by proofs to the satisfaction of the Government, and shall be duly authenticated. The Government shall have these balance-sheets, profit and loss accounts, and reports published in the *Staatskoerant* at the cost of the bank concerned.

Filing and publication of condensed balance-sheets.

In case of contravention of any provision of this article, the bank so contravening shall pay a fine of £500 sterling, and shall at the pleasure of the Government forfeit its permit mentioned in articles *one* and *two* of this law.

Penalty.

18. *Repealed by Ordinance 33 of 1903, section two.*

This law does not apply to the National Bank of the S. A. Republic.

19. This law shall come into operation immediately after publication in the *Staatskoerant*.\*

Operation.

\* Published in *Staatskoerant* of 7th June, 1893.

*By act 16 of 1914*

## LAW No. 4, 1893.

## PERJURY IN CONNECTION WITH AFFIDAVITS.

(Approved and enacted by Resolution of the Hon. First Volksraad, Article 631, dated 11th July, 1893.)

Whereas it has appeared necessary to make provisions with regard to the commission of the crime of perjury in certain cases, it is hereby provided and enacted as follows:—

Perjury by affidavit or other solemn declaration.

1. Any one who, whether in or out of a Court of Justice, shall make an affidavit or other solemn declaration declared by the law to be the equivalent of an affidavit before a Landdrost, Justice of the Peace, Field Cornet, or any other thereto-competent person, which declaration shall appear to have been made falsely and in conflict with the truth, in bad faith, or with the intention of injuring others or benefiting himself, shall be deemed to have thereby committed the crime of perjury, and shall be punished as a perjurer.

2. This law comes into operation immediately after publication in the *Staatskoerant*.†

† Published in *Staatskoerant* of 19th July, 1893

## LAW No. 9, 1893.

(Law in substitution for Law No. 4, 1889.)

BEING A LAW RELATING TO THE CLOSING AND OBSTRUCTING OF  
PUBLIC ROADS OVER FARMS WHICH ARE FENCED IN.(Dealt with and confirmed by the Hon. First Volksraad,  
Articles 1038, 1039, 1041, 1042, 1045-1048, 1050-1053,  
dated 9th August, 1893.)

The First Volksraad deeming it desirable, in the anticipation of the eventual passing of a fencing law, to make certain provisions relative to already existing fences of farms, lands (lauderijen), etc., along or across roads, as also for such fences still to be made before a law as above mentioned shall have been passed, resolves:—

1. Every landowner or occupier of a farm or piece of ground shall be entitled to erect a fence on his farm or piece of ground by means of ordinary smooth or barbed wire or otherwise along or across† a road running over his farm or ground, provided that he leaves the necessary spaces unobstructed for public use as defined in the law relating to travellers, transport riders, and trekkers, and that he puts up a gate, as more fully described in this law, at the place where such fence crosses a road.

2. Where such fenced road crosses cultivated lands (zaai-landen), gardens, or orchards, a width of at least 70 feet in the case of a transport road, and at least 30 feet in the case of an ordinary road, shall be kept open; where a transport road or ordinary road crosses a homestead (werf), in both cases a width of at least 30 feet shall be kept open.

3. Where such fence crosses any recognised public road, a gate shall be placed there allowing an opening at least 15 feet in width, in order to afford to travellers with their vehicles or otherwise a free passage; and the owner or occupier of such farm or piece of ground so fenced in shall be obliged to maintain such gates in proper order.

These gates may not be locked by a lock, but must at all times be capable of being easily opened by hand without the use of a key or any other object or instrument.

4. At places where such fence crosses a Government telegraph or telephone line, a gate may be put up and maintained by the Government. The Telegraph Department shall be entitled to keep two keys of each such gate.

5. The gates shall be properly fixed to one or both sides of the gateway to facilitate opening and closing, and such gates shall be hinged gates of wood or iron, or if of wire, whether smooth or barbed wire, it shall be interlaced or fastened to small cross bars to facilitate opening and closing;

† See Ordinance No. 44, 1904, section *nine*.

at the side where the gate has to be opened or shut, not more than two hooks or rings may be used and a strong pole or stone shall be planted in a conspicuous place at the side of the place of ingress or egress at such gate at least fifteen yards from the gate, to which pole or stone riding or draught animals may be tied whilst the gate is being opened or closed.

Removal of  
fences and  
gates  
erected con-  
trary to law.

6. *Fences, gates, and other total or partial enclosures of and obstructions on roads placed, erected or closed in conflict with the provisions of this law, or in conflict with the directions of the Government, may be removed or destroyed by the Government, or by or at the instance of the Landdrost of the district after consultation with the Field Cornet of the ward at the cost of the person who has erected the fence, the gate, or the enclosure or placed the obstructions, without the Government being rendered liable for any damage whatsoever directly or indirectly occasioned thereby.\**

Penalty.

The person who has placed the fence, the gate, or the enclosure or obstruction, or the occupier of the ground, or if the ground is not occupied the owner of the ground, shall further be subject to a fine not exceeding ten pounds sterling, or in case of non-payment to imprisonment not exceeding 14 days, without prejudice to an action for damages to which he may expose himself.

Penalty for  
not closing  
gates after  
use.

7. Any person, not being the owner or occupier of the farm or piece of ground so fenced in or his agent (*gemachtigde*), who shall be proved to have passed through one of the gateways as aforesaid without immediately again closing the gate after passing through, even if such person finds such gate open and does not close it, shall be liable to a fine not exceeding five pounds sterling, and in default of payment to imprisonment with or without hard labour not exceeding 14 days, without prejudice to an action for damages to which such offender may expose himself.

Penalty for  
opening gates  
needlessly.

8. Any person, not being the owner or occupier of the farm or piece of ground on which said gates are, and not being instructed thereto by the owner or occupier, who shall be proved to have opened any gate without the intention of passing through it himself or letting others pass through, shall be liable to a fine not exceeding £10 sterling, or in default of payment to imprisonment with or without hard labour not exceeding one month, without prejudice to an action for damages to which such offender may expose himself.

Apprehension  
of person  
wilfully or  
negligently  
damaging  
fence or gate.

9. Any person wilfully or negligently damaging or destroying any fence or gate may be forthwith apprehended by the owner or lawful possessor of the fenced farm or piece of land, their servants or agents, or any person present when the damage is occasioned, and brought before the Landdrost Court, which court may, upon conviction, impose upon the accused as a penalty a fine of from five pounds to fifteen pounds sterling, or in default of payment imprisonment with or

Penalty.

\* The paragraph in italics has been substituted by Law No. 22. 1894, Art. 4.

without hard labour from one to three months, with additional condemnation to payment of the amount of the damage proved.

10. Gates at rivers and spruits shall, as far as possible, be placed at such spots as are not unsafe for the halting of vehicles and conveyances. Gates at rivers.

11. In the event of accidents through colliding or otherwise against a fence or any gate as referred to in this law, the owner or occupier of the farm or piece of ground in question shall not be liable for damage to persons, or to riding or draught animals, vehicles, or otherwise. Accidents through collisions.

12. Law No. 4 of 1889, as also all enactments in conflict herewith, are hereby repealed. Repeal.

13. This law comes into operation immediately after publication in the *Staatskoerant*.†

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† Published in *Staatskoerant* of 6th September, 1893.

## FIRST VOLKSRAAD RESOLUTION, 1st June, 1893.

Burgers assisted by Government as to survey fees exempted from expenses of mortgage for same.

Art. 236. The First Volksraad having considered the various petitions together with the Commission Report thereanent now on the order,

Having further considered section *seven* of the Commission Report under article *nine hundred and ninety-four*, dated 20th July, 1891, and in connection therewith First Volksraad Resolution article *one thousand and forty*, dated 21st July, 1891;

Resolves not to agree with the Commission Report, and

Resolves further to instruct the Government to meet the poor burghers in terms of Volksraad Resolution article *one thousand and forty\** of 1891, and by virtue of that instruction and as far as possible to exempt them from expenses (for the drawing up of mortgages).

SECOND VOLKSRAAD RESOLUTION, 11th July, 1893,  
Article 584.‡

(Accepted as notice by First Volksraad Resolution, 28th July, 1893, Article 921.)

Amendment of art. *ten* of Law No. 9, 1880 (on telegraphs).

The Executive Council Resolution was unanimously approved of.

Said Executive Council Resolution§ reads as follows:—

On the order: Minute R. 12809/92 *re* amendment of article *ten* of Law No. 9, 1880, for regulating electric telegraphs.

The Executive Council having considered the instruction of the Hon. Second Volksraad contained in article *five hundred and seventy nine* of the minutes dated 29th June, 1892, with reference to the Commission Report *in re* “State *versus* Howcroft”:

Having seen the proposal of the head of the Telegraph Department;

Having seen the advice of the State Attorney;

Resolves to agree with the said proposal and to amend article *ten* of Law No. 9, 1880, as follows:—

Telegraph clerks forbidden to copy messages.

1. After the words, “without consent of the person sending or receiving such message or despatch” to add the words, “or makes a copy of such message in any form without having received written instructions to that effect from his superior, or without it being required to carry on the service.”

Persons bribing telegraph clerks, etc., are subject to punishment.

2. At the end of the said article to add the words, “the person or persons who by gifts, presents, or promises may have persuaded such clerk, messenger, or other employee to commit the offences specified in this article shall be subject to similar penalties.”

\* *Supra*.

† Published in *Staatskoerant* of 9th August, 1893.

§ Published by Government Notice No. 421, 1892.

This amendment to be of force immediately after publication in the *Staatskoerant*, and to have force of law until the Hon. Second Volksraad shall have further dealt with and confirmed the same in the first following session.

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FIRST VOLKSRAAD RESOLUTION, 29th August, 1893.

Art. 1226. The First Volksraad having considered the Government letter together with the report of the Government Commission included therein, now on the order.

Owners of farms not responsible for costs of erection of unnecessary beacons.

Considering that it appears from said report that unnecessary beacons have been erected on many farms in conflict with the law, and that many badly built beacons have also been erected;

Resolves: (1) That the owner of the farm whereon such unnecessary beacons have been erected ought not to be held responsible for the costs thereof; (2) to instruct the Government to institute an enquiry as to the cause why said unnecessary beacons have been erected, and as to the manner in which and the price for which all beacons have been erected, and to cause the persons who are responsible for the erection of such unnecessary or bad beacons to compensate the damage suffered thereby or to repay the moneys unjustly received.

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FIRST VOLKSRAAD RESOLUTION, 6th September, 1893.

Art. 1322. The First Volksraad having considered article *eleven* of the report of the Budget Commission, and the petition in connection therewith now under consideration,

Accepts said article as notice; and

Resolves further to instruct the Hon. Government, firstly (as to—Trs.) all locations still to be beacons off as enacted in 1891† to offer the Kaffir tribes in question their locations, and on refusal to accept the same within the period of one year, they shall forfeit all further claim to a location; secondly, to grant no location on grounds rich in minerals; thirdly, at the commencement of the next ordinary session to report to the Raad which Kaffirs may have refused to have their locations beacons off; fourthly, as far as possible to comply with the request of the petitioners;

Locations not accepted within a year to lapse.

No locations on ground rich in minerals.

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† I.e. F.V.R.R. 3rd August, 1891, Art. 1232, which is repealed by Trans. Proclamation No. 34, 1901.

SECOND VOLKSRAAD RESOLUTION, dated 21st July,  
1893, Article 630.\*

(Accepted as notice by First Volksraad Resolution, Article  
1323, dated 6th September, 1893.)

Contracts  
(mineral  
leases) on  
native  
locations not  
recognised if  
in conflict  
with Law No.  
18, 1892.

The Second Volksraad having considered all the contracts (relating to the leases of minerals, metals, and precious stones, and otherwise)† on and of Kaffir locations now on the order, having considered the Executive Council Resolution in conjunction therewith (against the terms of said contracts), as also the letter of the head of the Mining Department as to his disapproval of the terms of the said contracts, and having considered the information given in this connection by the Hon. Government, resolves to agree to the Executive Council Resolution not to recognise any contract of whatever kind on and of Kaffir locations which may be in conflict with article *twenty-one (a)* of Law No. 18, 1892.

GOVERNMENT NOTICE No. 151, dated 24th June, 1893.

Leases or sales  
to natives of  
ground  
granted under  
Occupation  
Law pro-  
hibited.

It is hereby notified for general information to persons interested, that no leases or sales to natives or native tribes of any ground, granted under the Occupation Law, shall be allowed or recognised by the Government, because such would be in conflict with the object wherefor these grounds have been granted under the said law; and that the rights of white persons who do not occupy their grounds in accordance with articles *sixteen, seventeen, eighteen, twenty, and twenty-one* of Law No. 8, 1886, being the Occupation Law, shall be declared lapsed in terms of articles *twenty-two* and *twenty-three* of the said law.

\* Published in *Staatskoerant* of 4th October, 1893.

† Dutch wording "anderzins," in Minutes of Volksraad and in publication in *Staatskoerant*; in Lokale Wetten the word "onderzoek" is substituted.

**1894.**

## A CONVENTION BETWEEN HER MAJESTY THE QUEEN OF THE UNITED KINGDOM OF GREAT BRITAIN AND IRELAND AND THE SOUTH AFRICAN REPUBLIC.

Whereas Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and his Honour the State President of the South African Republic, as representing the Government of the said Republic, have agreed that it is expedient that they should enter into a convention relative to the affairs of Swaziland in substitution of the Conventions of 1890 \* and 1893. \*

Now, therefore, Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and his Honour the State President of the South African Republic, as representing the Government of the said Republic, hereby consent and agree that the following articles, accepted finally by and between Her Majesty and His Honour, shall, when duly signed, sealed, and executed by Her Majesty's High Commissioner for South Africa on behalf of Her Majesty, and by his Honour the State President of the South African Republic on behalf of the Government of the said Republic, and when duly ratified † by the Volksraad of the South African Republic, constitute and be a convention by and between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and the South African Republic.

Article I.—The provisions of the Convention of 1890 shall be continued in full force and effect from and after the date of the signing of this Convention by His Excellency Sir Henry Brougham Loch, Her Majesty's High Commissioner, on behalf of Her Majesty, and his Honour Stephanus Johannes Paulus Kruger, State President of the South African Republic, on behalf of the Government of the South African Republic, until the date of the ratification of this Convention by the Volksraad of the South African Republic; provided that should this Convention not be ratified before or during the next ordinary session of the said Volksraad, the provisions of the Convention of 1890, saving the provisions of articles *ten* and *twenty-four* thereof, which shall remain in full force and effect, may at any time thereafter be terminated by one month's notice, given either by Her Majesty's Government or the Government of the South African Republic, and thereupon at the expiration of the said month, in accordance with the Convention of 1884, all the provisions relative thereto in the said Convention shall be of full force and effect; and provided further that if at any time before the ratification in manner aforesaid, the assent of the Swazie Queen-Regent and Council to the draft Organic Proclamation already agreed to by Her Majesty's Government and the Government of the South African Republic be duly signified, the Convention of November, 1893, shall, upon the signification of such assent, be and remain of full force and

\* *Supra.*

† Ratified by F.V.R.R. 13th February, 1895, Art. 24.

effect subject to the terms of the said Organic Proclamation, and this Convention shall not thereafter be ratified but shall be of no force and effect, and the provisions of the Convention of 1890 shall no longer be of any force or effect saving the provisions of articles *ten* and *twenty-four* thereof, which shall remain of full force and effect.

Article II.†—Without the incorporation of Swaziland into the South African Republic, the Government of the South African Republic shall have and be secured in all rights and powers of protection, legislation, jurisdiction, and administration over Swaziland and the inhabitants thereof, subject to the following conditions and provisions, namely :—

(1) That the young King Ungwane *alias* Uhili *alias* Ubonu after he has become of age, according to native law, shall be and remain the Paramount Chief of the Swazies in Swaziland, with the usual powers of such Paramount Chief, in so far as the same are not inconsistent with civilised laws and customs.

(2) That the payments by the Government of the South African Republic of moneys derived from the collection of the private revenue of the King shall be regularly made in terms of concession or power of attorney, granted in that behalf by Umbandine, and confirmed by the judgment of the chief court.

(3) That the management of the internal affairs of the natives shall be in accordance with their own laws and customs, including the laws and customs of inheritance and succession, and that the native laws and customs shall be administered by the native chiefs entitled to administer the same, in such manner as they are in accordance with the native law and custom at present administering, in so far as the said laws and customs are not inconsistent with civilised laws and customs, or with any law in force in Swaziland made pursuant to this Convention, and the natives are guaranteed in their continued use and occupation of land now in their possession, and of all grazing or agricultural rights to which they are at present entitled; provided that no law made hereafter in Swaziland shall be in conflict with the guarantees given to the Swazies in this Convention.

(4) That in the administration and government of the country by the Government of the South African Republic, no hut tax or other tax shall be imposed upon the natives higher than the corresponding tax to which such of the Swazie people as are living within the borders of the Republic may be subject. In no case, however, shall such taxes be able to be imposed until after the expiration of three years from the date of the ratification of this Convention.

Article III.—The Government of the South African Republic agrees to appoint an officer who shall administer Swaziland in terms of this Convention.

† As to criminal jurisdiction over natives see Protocol dated 5th October, 1898, ratified by F.V.R.R. 6th October, 1898, Art. 1388, and published under Govt. Notice No. 525, 1898 (*Lokale Wetten*, 1898, p. 371—not published).

Article IV.—The Government of the South African Republic agrees that the chief court heretofore established shall continue to exercise and possess all the powers and jurisdiction hitherto exercised or possessed by it; the said court shall also have such powers and jurisdiction as may be conferred upon it, in accordance with article *two* of this Convention, subject to the conditions of the said article, with full power to decree against all persons, execution of every order, judgment, decree, or sentence made by it in the exercise of its jurisdiction.

Article V.—The laws, ordinances, proclamations, and regulations at present in force in Swaziland shall continue to be of full force and effect therein until altered, amended, or repealed in accordance with the terms of this Convention; and the power and jurisdiction heretofore exercised or possessed by Landdrost Courts and justices of the peace shall continue to be exercised and possessed by such courts and such justices of the peace respectively, unless and until other provision be made in accordance with the terms of this Convention.

Article VI.—All Government officers appointed under and by virtue of the Convention of 1890, shall continue to hold and administer the offices to which they have been appointed, and shall be secured in the emoluments and fees of office at present enjoyed by them, until the date of the ratification of this Convention, or until other provision be made in that behalf by Her Majesty's Government or the Government of the South African Republic, and thereupon all such appointments shall cease and determine; provided that on or after the date of ratification aforesaid the said officials or any of them may be re-appointed to the said offices or any of them, in accordance with the terms of this Convention.

Article VII.—All British subjects residing in Swaziland, or having in Swaziland any property, grant, privilege, or concession, or any right, title to, or interest in, any property, grant, privilege, or concession, shall be secured in the future enjoyment of all their rights and privileges of whatsoever nature or kind in like manner as burghers of the South African Republic, but shall obey the Government and conform to the laws established for Swaziland.

Article VIII.—Every white male who shall have been a bona fide resident in Swaziland (even if temporarily absent from Swaziland) on the 20th of April, 1893, shall become and be entitled to all the political privileges of a full burgher of the South African Republic as though he had been born in that Republic; provided however

(a) that every white male shall make application in writing to an officer to be appointed at Bremersdorp, in Swaziland, by the Government of the said Republic, to have his name enrolled upon a list of persons so entitled, and upon satisfactory proof by a true and solemn declaration of his bona fide residence in Swaziland on the aforesaid day, such declaration to be made within six months from the date of public notification of the appointment of such officer as aforesaid, such officer shall be bound to enrol his name on such list,

and such list shall be the list of burghers of the South African Republic so admitted under this head of this article to the privileges aforesaid ;

(b) that every white son of any person admitted to the privileges of a burgher under the preceding paragraph of this article, which son shall have been a minor on the aforesaid date, shall be entitled to the like political privileges which he would have had if his father had been a natural-born burgher of that Republic and he himself had been born therein, provided that the right under this section shall be claimed by such minor from the Government of the South African Republic by notice in writing within twelve months from his attaining his majority ;

(c) that every person admitted as a burgher shall, while resident in Swaziland, be entitled to register his vote at any election when and where a burgher resident in some convenient district of the South African Republic adjoining Swaziland, would be entitled to vote, such district to be determined by the Government of the South African Republic, and if thereafter he shall come to reside in any district of the South African Republic such person shall there be entitled to register his vote.

Article IX.—The equal rights of the Dutch and English languages in all courts of Swaziland shall be maintained. This provision shall be in force so long as the administration of Swaziland by the Government of the South African Republic continues under the provisions of this Convention.

Article X.—The Customs duties shall not be higher in respect of any article imported into Swaziland than the duty thereon according to the tariff at present in force in the South African Republic, or the tariff at present in force in the South African Customs Union, whichever is now the higher. This provision shall be in force so long as the administration of Swaziland by the Government of the South African Republic continues under the provision of this Convention. Every exclusive right or privilege of or belonging to any individual or individuals, corporation or company, with regard to imposition of or exemption from Customs duties on goods shall be liable to expropriation by the administering authority ; provided that no such individual or individuals, corporation or company, shall be deprived of or interfered with in the enjoyment of any such exclusive rights or privileges as have been confirmed by the chief court prior to the 8th November, 1893, without due compensation being awarded. The amount of such compensation shall be assessed by means of arbitration in case of difference. Each party interested shall appoint an arbitrator and the said arbitrators shall, before proceeding with the arbitration, appoint an umpire ; should the said arbitrators be unable to agree upon an umpire such umpire shall, upon application of either party, after notice to the other, be appointed by the chief court ; the decision of the majority of the persons so appointed shall, in case of difference, be final.

Article XI.—The Government of the South African Republic agrees to prohibit the sale or supply of intoxicating liquor to Swazie natives in Swaziland.

Article XII.—No railway beyond the eastern boundary of Swaziland shall be constructed by the Government of the South African Republic save under the provisions of a further contemplated convention between Her Majesty the Queen and the South African Republic, or with the consent of Her Majesty's Government.

Article XIII.—Articles *ten* and *twenty-four* of the Convention of 1890 are here again set forth for convenience of reference :—

“Article *ten*.—The Government of the South African Republic withdraws all claim to extend the territory of the Republic, or to enter into treaties with any natives or native tribes to the north or north-west of the existing boundary of the Republic, and undertakes to aid and support by its favouring influence the establishment of order and government in those territories by the British South African Company within the limits of power and territory set forth in the Charter granted by Her Majesty to the said Company.”

“Article *twenty-four*.—Her Majesty's Government consent to an alteration of the boundary of the South African Republic on the east so as to include the territory known as the Little Free State within the territory of the South African Republic.”

Article XIV.—Her Majesty's Government reserves the power of exercising diplomatic representation in favour of Swazie natives or British subjects in case any provision of this Convention shall not be fairly and faithfully observed.

Article XV.—Her Majesty's Government reserves the right to appoint a British Consular Officer to reside in Swaziland.

Signed and Sealed on the Border of Natal and the South African Republic, near Charlestown and Volksrust, this 10th day of December, 1894.

HENRY B. LOCH,

High Commissioner.

Signed and Sealed on the Border of Natal and the South African Republic, near Charlestown and Volksrust, this 10th day of December, 1894.

S. J. P. KRUGER,

State President of the South African Republic.

DR. W. J. LEYDS,

Staats Secretaris, Z.A.R.

## LAW No. 6, 1894.

## ON THE RIGHT OF MEETING AND ASSEMBLING OF PERSONS.

(Approved and enacted by Resolution of the Hon. First Volksraad, Article 882, dated 17th July, 1894.)

Preamble.

Whereas it is desirable to make legal provisions concerning the right of persons to assemble and meet, be it hereby enacted and provided as follows:—

Public right of assembly.

1. The right of the inhabitants to assemble and meet is recognised.

Limitation of right.

2. The exercise of that right may be limited in the interests of public order.

Prohibited assemblies.

3. Every assembly or meeting of persons contrary to the public order is prohibited.

Prohibited assemblies.

4. Every assembly or meeting of persons shall be deemed contrary to public order the purpose of which is

(a) Disobedience to or contravention of the law or any legal enactment.

(b) Disturbance of the exercise of the rights of any person whomsoever.

(c) The use of means of expulsion and violence, whereby the public peace and safety are or may be endangered, or whereby the authority of the appointed powers and officials is attacked.

(d) An offence against good morals (aanranding der goede zeden).

Public meetings and processions prohibited, save with consent of authorities.

5. Public assemblies and meetings of persons for mutual deliberation or the delivery of speeches of whatsoever kind, and processions of whatsoever nature and for whatsoever purposes, are not permitted in the open air, unless with the consent of the Government or local authority to be appointed by the Government, or unless held in pursuance of some legal enactment.

Police to have access to all meetings.

6. The local and detective police shall have free access to all assemblies and meetings of persons in buildings to which the public are admitted.

Refusal of access entitles the police to force an entrance. The Government also has the right to grant the police access to any meeting, if it be suspected that such meeting might tend to the detriment of the independence.

Power to disperse meetings.

7. Every assembly or meeting of persons in which public order is disturbed, or which is prohibited and not permitted, shall disperse immediately upon the request of the police.

How meetings are dispersed.

8. If this does not take place immediately the leader of the police shall then call order (tekenen van orde roepen) by means of a drum or bugle, and then call out thrice in a loud voice, "obedience to the law, disperse, otherwise force will be used," and thereafter the police shall have the right to disperse such assembly or meeting by force and violence, if need be by the use of arms.

9. The local authority is competent where public peace and safety are endangered, or it is suspected that the public peace or safety may be endangered, to forbid the gathering in squares and streets of more than six persons together. Such prohibition shall be duly notified at public places and at the corners of the streets.

Power to prohibit meetings.

10. Participation in a prohibited assembly or meeting such as is mentioned in article *four* of this law shall be punished by imprisonment not exceeding two years, with or without hard labour.

Penalties.

Convenors (oprichters) or leaders of such prohibited assemblies or meetings shall be punished by imprisonment not exceeding five years, with or without hard labour.

11. Contravention of article *five* and article *nine* shall be punished by a fine not exceeding £50, or on non-payment, by imprisonment not exceeding six months, with or without hard labour.

Penalties.

Convenors or leaders of meetings or assemblies prohibited under articles *five* and *nine* shall be punished by a fine not exceeding £500, or on non-payment by imprisonment not exceeding two years, with or without hard labour.

12. As soon as six or more persons collect at one place, it is assumed under this law that an assembly or meeting of persons is taking place.

What is deemed to be a meeting.

Participators or convenors or leaders of assemblies or meetings prohibited by this law, who hold any licence requisite for the exercise of any calling in this State, shall over and above the penalties mentioned in this law forfeit such licence, and no longer exercise their calling.

13. This law comes into operation immediately after publication in the *Staatskoerant*.\*

\* Published in *Staatskoerant* of 18th July, 1894.

## LAW No. 10, 1894.

## AGAINST BRIBERY OF OFFICIALS.

(Approved and enacted by the Hon. First Volksraad, Article 786, dated 11th July, 1894.)

Penalty on an official who takes a bribe.

1. An official †*and any person in service of the Republic* shall be punished by imprisonment, with or without hard labour, for a period not exceeding five years,

(a) who either directly or indirectly accepts a gift or promise, knowing or having reason to suspect (*kunnende vermoeden*) that the same was made to him in order to induce him to perform or leave unperformed some act in his official capacity (*bediening*) in conflict with his duty;

(b) who either directly or indirectly accepts a gift, knowing or having reason to suspect that the same was made to him in consequence or by reason of some act performed or left unperformed by him in his official capacity in conflict with his duty.

Penalty on a judge who takes a bribe.

2. The judge who either directly or indirectly accepts a gift or promise, knowing or having reason to suspect that the same was made to him in order to influence the decision of any case submitted to his judgment, shall be punished by imprisonment, with or without hard labour, not exceeding ten years.

Penalty on persons bribing.

3. With imprisonment with or without hard labour not exceeding seven years and fine not exceeding £600 shall be punished any person

(a) who either directly or indirectly makes a gift or promise to an official †*and any person in service of the Republic* with the object of inducing him to perform or leave unperformed any act in his official capacity in conflict with his duty;

(b) who directly or indirectly makes a gift to an official, †*and any person in service of the Republic* in consequence, or by reason of, some act which such official in his official capacity has performed or left unperformed in conflict with his duty.

Bribing of judges.

4. Any person who either directly or indirectly makes a gift or promise to a judge, with the object of influencing the decision of any case submitted to his judgment shall be punished by imprisonment, with or without hard labour, not exceeding ten years, and by fine not exceeding £1,000 sterling.

Dismissal on conviction.

5. Conviction of an official †*and any person in service of the Republic* or judge for any contravention of this law shall *ipso facto* carry with it his discharge from office.

Interpretation of term "official."

6. By official †*and any person in service of the Republic* in this law shall be understood every person who shall have taken the oath of allegiance to the people and the Government

† The words in italics have been inserted by F.V.R.R., 3rd July, 1895, Art. 580.

of this Republic, and who draws a salary or remuneration from the State Treasury, whether such persons be appointed by Government or are chosen by an election appointed by virtue of legal provision.

7. Under judges in this law arbitrators are included.

Arbitrators.

8. All laws and provisions in conflict with this law are hereby repealed.

Repeal.

9. This law comes into operation immediately after publication in the *Staatskoerant*. §

## LAW No. 12, 1894.

## EXCISE LAW.

(Approved and enacted by the Hon. First Volksraad, Article 1063, dated 30th July, 1894.)

REGULATIONS FOR THE LEVYING AND COLLECTION OF EXCISE PAYABLE UPON DISTILLED LIQUORS OR LIQUIDS PREPARED FROM IMPORTED PRODUCE OR SUBSTANCES, OR FROM ANY OTHER SUBSTANCE MANUFACTURED THEREFROM.

Upon what liquors and what amount of excise is payable.

1. Upon distilled liquors or liquids, which are manufactured in the South African Republic from imported produce or substances, or from any other substances prepared therefrom, an excise shall be levied equal to the amount of the special Customs duties at present existing on distilled liquors or liquids, products of the neighbouring States and Colonies, viz., 6s. per gallon on distilled liquors or liquids of a standard alcoholic strength equal to from 11° to 56°, inclusive, measured by the Tralles' alcoholmeter, and £1 per gallon on all distilled liquors or liquids of a standard alcoholic strength in excess of 56°, according to the Tralles' alcoholmeter.

If distilled liquors or liquids are mixed with sugar or any other substance so that the strength cannot be accurately determined, the highest tariff shall be applied.

Licence to distil.

2. For distilling (distillieren of stoken) as set forth in article *one* a licence shall be required from the coming into operation of this law to be applied for in the forms hereinafter mentioned.

Amount and term of licence.

3. The cost of this licence amounts to £25 per annum from 1st January to 31st December.

If the licence is granted for not longer than six months the cost shall amount to £15. For the first time after the coming into operation of this law the licence shall be calculated from the date of issue to the 31st December at £25 per annum.

Payment of licence in stamps.

4. The licence moneys shall be paid in stamps to be affixed to the licence.

Licence may be refused.

5. The Inspector-General or his representative has the power to refuse to grant or renew any licence stating his reasons.

Filing of application for licence and security.

6. Every application for a licence or renewal thereof shall be sent into the office of the Inspector-General or his representative at least fourteen days before the date on which the licence is to be of force, and the applicant shall give security in proportion to the quantity he is able to produce (naar zijn productievermogen), to wit, if able to produce

up to	250 gallons per month	...	...	£100
„	500	„	„	150
„	1000	„	„	300
„	2000	„	and above	600

7. In the application for a licence as distiller or any renewal thereof shall be clearly set out
- (a) name and Christian name of applicant in full;
  - (b) residence and district, number of erf and stand, or name of the street, or name of the farm, clearly indicating the place where the applicant desires to distil;
  - (c) number and capacity of the stills, with description of the vats and other requisites;
  - (d) name of the raw material intended to be used;
  - (e) statement of the kind of spirits (gedistilleerd) which is intended to be produced;
  - (f) during which period of the year it is intended to distil.
- Form of this application according to model annexed.
8. Every licensed distiller shall be obliged to send in to the office of the Inspector-General of Customs, before or on the fifth day of each month, a sworn declaration in accordance with the form hereto annexed, showing the number of gallons and the name, as also the strength of the spirits produced during the past month, and also the quantity and name of the raw materials used and the amount of excise paid before delivery. Should such declaration not be sent in, or not be sent in in time, a fine shall be imposed as hereinafter provided.
- Upon repetition of the contravention the Inspector-General or his representative may cancel the licence, in which case no licence moneys paid will be refunded.
- A licence may be transferred with the consent of the Inspector-General or his representative upon payment of 5s. in stamps.
- The person in whose name the licence is registered shall be responsible for every contravention of this law.
9. Every distillery as described in this law shall be situated within the limits of a village or town or within a distance of three miles therefrom, unless special permission shall have been granted by the Inspector-General or his representative to establish a distillery at a greater distance.
10. All premises, utensils, casks, stills shall bear a special mark as prescribed.
- The omission to mark or indistinct marking shall be punished with a fine as hereinafter provided, and in this case the Inspector-General or his representative shall have the right to cause the marks to be affixed at the expense of the distiller.
11. The distiller shall have to keep books, from which shall appear in the clearest manner
- (a) the quantity and kind of the raw materials bought or imported by him, stating from whom and whence;
  - (b) the quantity and strength of the distilled liquors or liquids manufactured;
  - (c) the quantity and strength of the spirits delivered, stating the names to whom delivered, and the date of payment of the excise.

Contents of application.

Filing of monthly return of production.

Penalty.

Cancellation of licence on repetition of contravention.

Transfer of licence.

Person responsible.

Situation of a distillery, etc.

Marks to be affixed.

Penalty.

What books to be kept by distiller.

Inspection by officials.

12. The books above mentioned shall at all times be at the distillery open to the inspection of the Inspector-General or his representative, who may take extracts therefrom or, if he deems it necessary, attach the same.

Penalty.

If the prescribed books are not kept, or are not kept properly, or upon refusal to produce the same to the competent official, a fine may be imposed as hereinafter provided.

Time for payment of duty.

13. The Inspector-General or his representative may allow a licensed distiller to pay the excise on the spirits distilled only at the time of sale or on the removal from his distillery or store, in which case a separate room (lokaal) shall serve as a private warehouse.

Private warehouse.

What may be stored.

14. Nothing but distilled liquors or liquids upon which the excise has not been paid shall be stored in such locality.

No removal of stock till excise paid.

15. No distilled liquors or liquids may be removed from such warehouse or from the distillery until the excise shall have been paid.

No removal without way-bill.

16. No distilled liquors or liquids may be removed from the warehouse or the distillery without a way-bill (geleidebiljet) in accordance with the form annexed, duly signed by the distiller. This way-bill, a record and duplicate whereof shall be kept by the distiller, shall state

Contents of way-bill.

the name of the distiller and distillery where the spirits come from;  
plain address to which it is sent;  
the time within which the removal shall be effected;  
the means of conveyance;  
date of payment of the excise.

This way-bill shall be produced upon demand to any official of the Excise Department or to persons authorised thereto under the Customs Law.

No way-bill to be issued till excise paid.

17. No way-bill may be issued if the excise has not been paid.

Punishment on contravention.

18. Any distilled liquors or liquids, as described in this law, removed from the distillery or the warehouse after sunset and before sunrise, or without a way-bill, shall be attached and declared forfeited, together with the casks, jars, or bottles containing the same, the party forwarding the same shall be obliged if the excise has not yet been paid to pay in addition a fine as hereinafter mentioned.

Forfeiture.

Book-keeping of stock.

If permission is granted to a distiller to keep a private warehouse, he shall keep book of the quantity and strength of the spirits brought into and removed from the warehouse.

Stock in warehouse to correspond with books.

19. The warehouse shall not at any time (nimmer) contain more or less distilled liquors or liquids than is shown in the books, nor (a quantity—Trs.) on which the amount of the excise due exceeds the security mentioned in article *six*.

Penalty on contravention.

If the quantity of distilled liquors or liquids should be found to be greater or less than is shown in the books, a fine may be imposed as hereinafter mentioned. The excess shall be forfeited. Any shortfall may be made up or the excise paid thereon.

20. The fine shall not be imposed if the quantity in excess is only  $\frac{1}{2}$  per cent., or if the deficiency is not more than 3 per cent.

When fine is not to be imposed.

Nor if the distiller shall prove to the satisfaction of the Inspector-General or his representative that the existing difference has not been caused by an attempt to defraud (outduiking).

21. In any case the excise shall be paid forthwith upon the quantity found in excess.

Payment of excise on excess.

22. The distiller who has permission to keep a private warehouse shall furnish one or more sureties to the satisfaction of the Inspector-General or his representative in an amount of not less than £300.

Security to be given by owner of warehouse.

This amount may be increased by the Inspector-General or his representative in proportion to the quantity of distilled liquors or liquids in stock.

No warehouse shall be granted before the surety bond duly signed has been deposited in the office of the Inspector-General or his representative.

23. The Inspector-General or his representative may, in consultation with the Executive Council, cancel the permit for keeping a private warehouse without stating reasons.

Cancellation of permission for warehouse.

24. Upon cancellation of the permit, all distilled liquors or liquids shall be removed from the private warehouse and the whole amount of the excise shall be forthwith paid.

What has to be done upon cancellation.

Upon non-compliance with the order of the Inspector-General or his representative, a fine may be imposed, as hereinafter mentioned, and the spirits forfeited.

Penalty.

25. Any person in whose house or workshop or factory, or on whose ground a still or portion thereof is found, shall be deemed to fall under article *two* of this law unless he shall, if required, prove to the satisfaction of the Inspector-General or his representative, that it was not his intention to distil from imported products or substances produced therefrom. If he acts in conflict herewith he shall be fined as hereinafter mentioned.

Persons deemed to fall under article *two* of this law.

26. Upon any forfeiture of distilled liquors or liquids under this law they shall after advertisement be sold in public by the Inspector-General or his representative.

Liquors to be sold upon forfeiture.

The excise due, fines and costs, shall first of all be paid out of the proceeds, while the balance shall be deposited with the Treasurer-General until the party concerned claims the same, and no interest shall be paid thereon.

Proceeds.

If at the sale the amount of the excise, fine, and costs is not covered, the person in whose name the licence is registered remains liable for the balance still due.

27. Any person who purchases or sells, receives or delivers, or has in his possession any spirits as described in this law, the payment of the excise on which he cannot prove, shall be fined as hereinafter mentioned.

Purchaser, etc., of spirits to prove payment of excise.

The way-bill referred to in article *sixteen* will be accepted (kan dienen) as proof.

REGULATIONS FOR OFFICIALS CHARGED WITH THE EXECUTION  
OF THIS LAW.

Power of  
Inspector-  
General.

28. The Government shall charge the Inspector-General or his representative with the general supervision of the due administration and collection of excise. The Inspector-General shall receive all instructions from the Executive Council, and shall render account of his administration in accordance with the General Instructions. He has the right to appoint one or more representatives who shall have the same power as is conferred upon him by this law.

This appointment shall be made under his seal and signature according to the form hereto annexed.

May cause  
inspection of  
stock.

29. The Inspector-General or his representative shall, as often as he deems it necessary, hold or cause to be held an inspection of the places where distilled liquors or liquids are manufactured or stored, or where he suspects that such are being manufactured.

Appointment  
of officials.

30. The Government shall appoint the officials. They are subject to the instructions of the Inspector-General.

Has right to  
enter  
distillery.

31. The Inspector-General or his representative may at any time enter upon any room or house, or workshop or distillery, belonging to or being used by a distiller or his representative, and measure, weigh, calculate, and examine the raw materials and distilled liquors or liquids in stock.

Upon refusal of admission a fine shall be imposed as hereinafter mentioned.

May attach  
books.

32. The Inspector-General or his representative may attach the books referred to in articles *eleven* and *eighteen*, and may demand that the same be confirmed by oath.

Penalty.

33. Should a distiller, upon demand for admission, refuse to comply therewith, he shall be fined for each contravention as hereinafter mentioned.

Cancellation  
of licence  
upon repeated  
contraven-  
tion.

34. Upon a repetition of the contravention, his licence may be cancelled without affecting (onverminderd) the fine hereinafter described.

Excise to be  
paid imme-  
diately upon  
cancellation.

35. Upon cancellation of the licence the excise on all the distilled liquors and liquids in stock shall be paid immediately.

What is to be  
done if stock  
and books do  
not tally.

36. Should the stock of distilled liquors and liquids differ from the books, the excise shall be calculated upon the largest number without affecting the fine hereinafter mentioned.

Right of  
entrance upon  
premises of  
dealers in  
spirits.

37. The Inspector-General or his representative may, at reasonable hours, enter upon the premises of any wholesale or retail dealer in spirits, inspect his books, make extracts therefrom, demand confirmation by oath, attach, examine, and record all the distilled liquors or liquids in stock, and take samples thereof and have the same analysed (*scheikundig onderzoeken*).

38.\* *It is prohibited to adulterate or dilute with any foreign substance any distilled liquors or liquids, whether prepared from imported products or substances or not, or from any article manufactured from same, and whether described in this law or not, or to sell such liquors or liquids, or to keep same in stock (voorhanden te hebben) in any building or any locality in which a wholesale or retail trade in spirits is carried on.*

Prohibition of adulteration or dilution

or to sell or stock such spirits.

*By adulterated or diluted liquors and liquids as above referred to shall, in this law, inter alia, be understood,*

Interpretation of term "adulterated or diluted spirits."

(a) *distilled liquors or liquids, irrespective of the substance from which they are manufactured, which have an alcoholic strength of less than 40 per cent., or a higher alcoholic strength than 56 per cent., measured according to the Tralles' alcoholometer;*

(b) *distilled liquor or liquids to which foreign substances have been added, either to increase the quantity or to reduce or conceal the alcoholic strength;*

(c) *distilled liquors or liquids in which sulphuric acid (acidum sulphuricum) or any other foreign substance is found;*

(d) *distilled liquors or liquids which contain more than 0.3 per cent. of fusel oil;*

(e) *distilled liquors or liquids of which the extract strength (extract gehalte) amounts to more than 1 per cent. From the above is alone excepted methylated spirits if stored in jars, bottles, or casks provided with a label on which the words "Poison; Methylated Spirits," are clearly printed in red letters.*

Exceptions.

*Contravention of this article shall be punished in terms of article forty-nine (g) of this law.*

Penalty.

39. Upon refusal of admission or upon non-surrender of the books, or upon refusal to assist at an investigation or upon refusal to furnish samples, a fine shall be inflicted as hereinafter mentioned.

Punishment on refusal of admission.

40. Upon repetition of the contravention the licence may be cancelled, and no refund shall be made of moneys already paid without affecting the fine hereafter mentioned.

Cancellation upon repetition.

41. Any person who assaults or causes any official acting under this law, or his assistant, to be assaulted, or resists the exercise of any power or function conferred upon him under this law shall be fined for each offence as hereinafter mentioned.

Punishment of resisting officials.

42. Any distilled liquors or liquids declared forfeited under this law may be attached and publicly sold after advertisement in the *Staatskoerant* upon order of the Inspector-General or his representatives.

Public sale of forfeited liquor.

43. If any distilled liquors or liquids are declared forfeited, the vats or bottles or casks containing the same shall also be forfeited.

Casks, etc., are included in forfeiture.

\* This Article has been substituted by Law No. 8, 1896, Art. 1.

Part of fine  
awarded to  
informer.

44. The Inspector-General may, in consultation with the Auditor-General, award a portion but not more than half of the fine imposed and paid to the informant.

Power of  
State  
Attorney.

45. The State Attorney shall have the power to bring any contravention of this law before any competent court in the South African Republic.

Fine no bar  
to criminal  
prosecution.

46. No fine shall exempt (vrijwaren) the delinquent from a criminal prosecution for any fraud, or neglect, negligence, or contumacy, or resistance.

Inspector-  
General  
*ex officio* J.P.

47. The Inspector-General or his representative shall, in the exercise of his functions, be *ex officio* a Justice of the Peace.

May demand  
proof of pay-  
ment of duty.

48. If the Inspector-General or his representative be in doubt with regard to the payment of excise or regarding the stated quantity of the manufactured distilled liquors or liquids or the strength of same or in the event of any contravention of this law, the proof that the law has been complied with must be supplied by the distiller or importer, or receiver, and not by the official who makes the investigation or institutes the prosecution.

Penal  
regulations.

49. Contraventions of the provisions of this law shall be punished as follows:—

(a) Contravention of article *eight* by a fine not exceeding £25, or imprisonment with or without hard labour not exceeding fourteen days.

(b) Contravention of articles *ten, eleven, fourteen, nineteen, twenty-four, twenty-five, thirty-one, thirty-three, thirty-four, thirty-nine, forty* by a fine not exceeding £50, or imprisonment with or without hard labour not exceeding one month.

(c) Contravention of articles *eighteen* and *forty-one* by a fine not exceeding £100, or imprisonment with or without hard labour not exceeding six months.

(d) Contravention of articles *fifteen, sixteen, seventeen,* and *twenty-seven* by a fine not exceeding £100, or imprisonment with or without hard labour not exceeding six months, and forfeiture of the distilled liquors or liquids.

(e) Contravention of article *twenty-one* by a fine not exceeding twice the amount of the excise due.

(f) Contravention of article *thirty-six* by a fine not exceeding five times the amount of excise due.

(g) Contravention of article *thirty-eight* by a fine not exceeding £100, or imprisonment with or without hard labour not exceeding twelve months, and forfeiture of the adulterated liquors.

(h) Contravention of articles *two* and *twelve* by a fine not exceeding £200, or imprisonment with or without hard labour not exceeding twelve months.

Repeal.

50. All enactments in conflict with this law are hereby repealed.

51. This law shall come into operation immediately after publication in the *Staatskoerant*.\*

\* Published in *Staatskoerant* of 1st August, 1894.

ANNEXURE I.—FORM A.

*South African Republic.—Excise.*

Application for a permit for a distillery in terms of Law No. 12, 1894.

1. Name and christian name.
2. Residence and district.
3. Number and size of stills.
4. What raw materials do you use?
5. How many and what kinds of vats and similar requisites?
6. What sort of spirits do you manufacture?
7. How many and in which months of the year do you wish to distil?
- 8.
- 9.
- 10.

Received the Permit granted the The undersigned hereby applies for a licence or permit for a distillery in terms of what is hereinabove specified.

the 189

ANNEXURE II.—FORM B.

*South African Republic.—Excise Department.*

Declaration of distiller

at The undersigned hereby declares that from to inclusive, there have been manufactured in his distillery:—

Gallons.	Name of Spirit.	Strength.	Quantity and name of the raw material.

As witnesses:

Distiller.

Sworn before me at this

ANNEXURE III.—FORM C.

*South African Republic.—Excise Department.*

Provisions in terms of article ten of Law No. 12, 1894. The distiller at is hereby instructed to provide his premises, utensils, vats, and stills with the following mark:—

Description of mark:

The omission to mark or indistinct marking shall be punished by a fine not exceeding £50, or by imprisonment not exceeding one month with or without hard labour. (See article *forty-nine*.)

The Inspector.

ANNEXURE IV.—FORM D.

*Way-bill.*

Despatched by		at
distillery mark		
to Mr.		at
the following spirits:—		
	gallons.	
	”	
	”	
The conveyance is by		to
to	and further by	days (months)..
	within	
The excise was paid on the		189
at	the	Distiller.

ANNEXURE V.—FORM E.

The undersigned, Inspector--  
 General of Customs, charged with the control and collection  
 of excise duty for the South African Republic, hereby declares  
 that he appoints , in terms of Law No. 12,  
 1894, article *twenty-eight*, to be his representative, and to  
 perform all official duties for and on his behalf relative to  
 the control and collection of excise duty.

Declared and signed at  
 this

Under my name and seal

As witnesses:

## LAW No. 13, 1894.†

## (ON PAWNBROKING--Trs.)

(Amended and approved by Articles 587, 588, 590, and 591 of the Resolutions of the Hon. Second Volksraad, and accepted as notice by the Hon. First Volksraad, by Article 996, dated 25th July, 1894.)

Whereas it is considered necessary to make rules and provisions with regard to "Pawnbrokers," it is hereby enacted as follows:—

- 1.\* *Repealed by Ordinance No. 23, 1905, section one.* Licence for pawnbroking.
2. The Landdrost, Mining Commissioner, or other qualified official, shall have the right to refuse such licence if he deems such advisable in the interest of his district or division. Licence may be refused.
3. The Landdrosts or Mining Commissioners shall have jurisdiction with regard to contraventions of this law. Jurisdiction.
4. No person or company shall have the right to accept any goods or effects or to advance money or value on, or to pay for or buy the same should they suspect that such goods or effects are not the bona fide property of the person or persons who offer the same for pawn or sale, but shall in case of suspicion be obliged immediately to notify the competent authorities thereof. Pawnbroker shall not accept articles in suspicious cases.
5. *Repealed by Ordinance No. 40 of 1903, section one.* Pawnbrokers to demand affidavits.
6. All goods or effects not released within the time agreed upon shall be sold on the public market by public auction after previous publication in the *Staatskoerant* and one of the public papers where the pawnbroker concerned resides, at least fourteen days after such publication. Public sale of unreleased articles.
7. The licence cannot be transferred to others, and the person or company to whom the licence is issued shall, in every case, be responsible for any contravention of this law. Licence not transferable.
8. Any one desirous of carrying on such business shall be bound before the licence is issued to give security for £500, together with two competent sureties possessors of unmortgaged fixed property *in solidum* in the amount of £250 each. Security.

† The provisions of this law do not apply to pawnbrokers carrying on business within municipalities (see Ordinance No. 58, 1903, section *seventy-two*, as amended by Ordinance No. 41, 1904, section *thirty*), nor to pawnbrokers carrying on business within the Municipality of Johannesburg--see Ordinance No. II (Private), 1906, section *ninety-five* (3).

\* For licence see Act No. 15, 1909, Second Schedule, item 15.

Form of  
deed.

9. The form of deed of security shall be more or less as follows:—

*Deed of Security for Pawnbrokers.*

Appeared before me, \_\_\_\_\_, this  
day of \_\_\_\_\_, 18\_\_\_\_, \_\_\_\_\_  
residing at \_\_\_\_\_, who  
declares that he is indebted to the State Attorney of the  
South African Republic or his lawful successors or substitutes  
in that office in the sum of £500;  
and \_\_\_\_\_ residing at \_\_\_\_\_  
and \_\_\_\_\_ residing at \_\_\_\_\_  
who declare that they each are indebted jointly and severally,  
*in solidum*, to the said State Attorney or his lawful successors  
or substitutes in that office, in the sum of £250; accordingly  
renouncing the legal exceptions of \_\_\_\_\_ with  
which they declare themselves to be fully acquainted, to be  
recovered from their mutual (*wederzijdsche*) goods and  
properties in case the said \_\_\_\_\_ does not  
fulfil the duties and obligations enjoined on him by the law.

Thus done and signed at the office of  
at \_\_\_\_\_ this day of \_\_\_\_\_  
signed before me on day, date, and place aforementioned.

Landdrost.

(Or Mining Commissioner or other official charged  
with the issue of licences.)

As witnesses:

Withdrawal  
of licence.

10. The licence may be withdrawn by the Landdrost or  
Mining Commissioner respectively in case of contravention  
of this law.

Penalties.

11. Every contravention of this law shall be fined with  
an amount not less than £3, and not exceeding £50, or, on  
non-payment, by imprisonment with or without hard labour,  
according to the nature of the case, not exceeding six months.

Pawnbroker  
may not carry  
on business  
without a  
licence.

12. No person shall be allowed to act as pawnbroker or  
to carry on that profession unless he is in possession of a  
licence as prescribed in article *one* of this law.

Repeal.

13. All provisions in conflict with this law are hereby  
repealed.

14. This law comes into operation three months after  
publication in the *Staatskoerant*.\*

\* Published in *Staatskoerant* of 8th August, 1894.

LAW No. 22, 1894.

AMENDMENT OF THE FOLLOWING LAWS WHICH HAS BECOME NECESSARY IN CONSEQUENCE OF FIRST VOLKSRAAD RESOLUTION, ARTICLE 1213†, DATED 28TH AUGUST, 1893, *in re* THE RESPONSIBILITY OF HEAD OFFICIALS.

(Approved and enacted by First Volksraad Resolution, Article 1024, dated 26th July, 1894.)

1. *Repealed by Ordinance No. 40, 1903, section one.*
2. *Repealed by Ordinance No. 40, 1903, section one.*
3. Paragraph 2, article eleven, of Law No. 1, 1893, shall read as follows: (*For text see paragraph 2 of article eleven of Law No. 1, 1893.*)
4. Paragraph 1, article six, of Law No. 9, 1893, shall read as follows: (*For text see paragraph 1, article six of Law No. 9, 1893.*)
5. *Repealed by Ordinance No. 40, 1903, section one.*
6. *Repealed by Ordinance No. 40 of 1903, section one.*
7. *Repealed by Ordinance No. 40 of 1903, section one.*
8. *Repealed by Ordinance No. 40, 1903, section one.*
9. *Repealed by Ordinance No. 40, 1903, section one.*
10. *Repealed by Tr. Pr. No. 10, 1902, section one.*
11. *Repealed by Ordinance No. 40, 1903, section one.*
12. *Repealed by Tr. Pr. No. 10, 1902, section one.*
13. *Lapsed by repeal of Law No. 4, 1883.*
14. *Repealed by Ordinance No. 40, 1903, section one.*
15. (*First paragraph amends article seven of Law No. 9, 1891, which article is superseded by Law No. 7, 1897, article two.*)

In article nine of the instructions for the Surveyor-General, the following amendment shall be made: "When any farm ‡ . . . . and if they are found correct, he shall thereafter‡ . . . . that these diagrams will be approved by him if within three months after publication no protest shall have come in against the said diagrams. The diagrams signed by the Surveyor-General shall be deemed to be a lawful and unimpeachable document."§

Amendment of instructions of Surveyor-General.

16. *Repealed by Law No. 2, 1899, article thirty-four, and by Ordinance No. 40, 1903, section one.*
17. *Repealed by Ordinance No. 40, 1903, section one.*
18. *Repealed by Ordinance No. 40, 1903, section one.*
19. *Repealed by Law No. 15, 1898, article one hundred and fifty-two.*
20. *Repealed by Ordinance No. 40, 1903, section one.*
21. *Repealed by Act No. 31, 1909, section one.*
22. *Repealed by Ordinance No. 40, 1903, section one.*
23. This law comes into operation immediately after publication in the *Staatskoerant*. ||

† Repealed by Ordinance No. 40, 1903.

‡ The word "enz." in Loc. Wetten should be dots (. . . .); see Volksraad Minutes and publication in *Staatskoerant*.

§ The above has been embodied in Art. 9 of the instructions for the Surveyor-General (*supra*).

|| Published in *Staatskoerant* of 10th October, 1904.

## FIRST VOLKSRAAD RESOLUTIONS, 18th July, 1894.

Article 884.\* The First Volksraad having considered item 1 of the commission report, now under consideration ; and having considered the petition with reference to Law No. 9, 1891 ;

Resolves to approve of paragraphs 1 and 2 of the item on the order.

Said paragraphs read :—

1. Section A of Law No. 9, 1891, to lapse.

Amendment  
of tariff of  
surveyors.

Surveyors shall then be obliged to survey according to the existing tariff, without being able to claim extra payment in proportion to the number of sides on the diagram.

Article 886.\* Second item of commission report was approved of.

Said item reads :—

Surveyor to  
point out  
distinguishing  
features at  
request of  
owner.

2. To enact, in connection with the commission report, approved by First Volksraad Resolution, article *four hundred and forty-one*,† dated 14th June, 1892, that the surveyor shall be obliged (if thereto requested by the owner or his representative before or at the survey) to point out at the survey a distinguishing feature (*merkteeken*) on the boundary about half-way between each two corner beacons ;

and that the surveyor be obliged at distances or places, as requested by the owner or his representative before or during the survey, to point out further distinguishing features upon payment as follows :—

Charges for  
such pointing  
out.

For the first extra feature on a boundary, one pound sterling, and for each following feature on the same boundary, five shillings less, with a minimum of five shillings per feature for the fourth and the following features on the same line.

Further that when such extra features are pointed out at the request of the owners of two adjoining farms or pieces of ground, the cost thereof shall be borne by those owners, each for one-half.

Article 888.‡ Fourth item of the commission report was approved of.

Said item reads :—

4. To add to article *fifteen* of Law No. 9, 1891, in accordance with the recommendation on page 2 of the report of the Surveyor-General for 1893 :—

Penalty for  
assuming  
title of  
surveyor if  
not admitted  
as such.

“No person, not properly admitted as surveyor by the Government, shall have the right to style himself *surveyor* on any diagram or any document, or to advertise himself as such under penalty of the fine as provided in said article *fifteen*.”§

\* Erroneously published as Art. 892 in Lokale Wetten, 1894, page 270.

† *Supra*.

‡ Erroneously published as Art. 892 in Lokale Wetten, 1894, p. 270, 271.

§ Added to Art. 15 of Law No. 9, 1891, as published (*supra*).

Article 892. The First Volksraad having considered both the petitions (First Volksraad Resolution 307/94 and 844/94) handed in at the discussion of the report of the Surveyor-General ; having considered the report of the commission just dealt with ;

Resolves to accept the same as notice, and to declare the tariff therein amended of force two months after publication in the *Staatskoerant*.†

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FIRST VOLKSRAAD RESOLUTION, 21st September, 1894.

Article 1812.\* The Raad agreed with item 4 of the report.

Said item of the commission report, after advising the desirability of increasing the staff of the Registrar of Deeds so as to cope with the work connected with the issue of title-deeds of erven, awarded as compensation for burgher-rights, continued :—

May it be permitted to your commission to still add hereto that it deserves recommendation to enact, that the transfer of abovementioned title-deeds to the present holder of those rights shall be free of costs, as also the calling up of special commissions in connection therewith.

Transfer of compensation erven free of costs.

In also calling up of special commission.

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FIRST VOLKSRAAD RESOLUTION, 21st September, 1894.

Article 1814.§ The Raad approves *inter alia* of item 8 (b) of the commission report on the matter of the annual report of the Registrar of Deeds.

Said item reads :—

(b) Since, however, an immediate provision is in the meantime urgently necessary, it has the honour to propose to you to now pass a resolution authorising the Hon. Government to have the protocols of the notaries inspected by the inspection service to be organised in terms of your resolution, dated 13th August ultimate, article *one thousand three hundred and thirty-two*, and providing further that in case a notary should refuse to produce his protocols for inspection, the Government shall have the right to apply to the High Court for striking him off the roll.

Inspection of protocols of notaries by Government.

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FIRST VOLKSRAAD RESOLUTION, 21st September, 1894.

Article 1816.† The First Volksraad resolves to instruct the Government to claim no taxes on the compensation erven, if title-deeds thereof are issued during the latter half of the year.

No taxes payable for current year on compensation erven.

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† Published in *Staatskoerant* of 8th August, 1894.

\* Published in *Staatskoerant*, 31st October, 1894.

§ Published in *Staatskoerant* of 31st October, 1894. As to regulations for examination of protocols and registers, see Govt. Notice No. 1294 of 1904, in *Government Gazette* of 15th December, 1904.

† Published in *Staatskoerant* of 17th October, 1894.

Government Notice No. 19, 1894.] [Dated 23rd January, 1894.]

**\*RULES AND REGULATIONS FOR THE CONDUCT OF  
CASES BEFORE THE NATIVE COURTS IN THE  
SOUTH AFRICAN REPUBLIC.**

(By virtue of Articles 8 and 14 of Law No. 4, 1885.)

- Preamble. Whereas it has been deemed necessary to make provisions for the better regulation of matters in the proceedings before the native courts ;
- Courts for native cases. Now therefore it is hereby provided as follows :—
- 1.† The courts of law for native cases, criminal as well as civil, shall be the existing courts of Commissioners and Sub-Commissioners, etc., according to law.
2. The Commissioners and Sub-Commissioners shall in the first instance take cognizance of all native cases.
- Leave to employ advocate, attorney, or agent. 3. If a native desires his case to be preferred before the native courts through an advocate, attorney, or agent, he shall have to obtain leave thereto from the Hon. Government by addressing a request to the Superintendent of Natives, who, after due investigation, shall make his comments and observations to the Hon. Government, and shall communicate the decision of the Government to the native.
- Record books for criminal and civil cases. 4. (a) The Commissioners and Sub-Commissioners of natives shall each keep two record books, one for civil and one for criminal cases, in which the whole hearing of each case, including the evidence, judgments and reasons, on which these are founded, remarks, etc., shall be accurately recorded.
- Register of cases. The records shall regularly be certified and signed by the Commissioner or Sub-Commissioner.
- (b) Further a separate register shall be kept by the Commissioner and Sub-Commissioners of natives, in which shall be shortly stated the names of the parties, the nature of the case, date of hearing, date of judgment, number of case and page, as appearing in the record books.
- Cash book. (c) A cash book, in which regularly all amounts of receipts and expenditure in their order, and stating dates, shall be accurately recorded.
- Receipt book. (d) A proper receipt book, the counterfoils whereof shall also be signed by the Commissioner or Sub-Commissioner who issues the receipt, countersigned by their clerk, if such is appointed.
- Tariff. 5. The following tariff shall be followed in every case submitted to the decision of the Native Commissioners and Sub-Commissioners, and all fees, costs, or stamp dues, shall be received by those officials against a receipt and shall be affixed to the

\* Passed by Executive Council Resolution, 23rd January, 1894, Art. 47, published in *Staatskoerant*, 24th January, 1894.

† As to jurisdiction of Native Commissioners and Sub-Commissioners see Act 29, 1907, Section 2.

records in Revenue stamps and cancelled by the said officials according to law :—

(a) For a claim for five head of cattle, or any other matter not exceeding the value of £25, a stamp of 10s. ;‡

(b) for every head of cattle above said number, or every £5 or portion thereof above said value of £25, a stamp of 2s. 6d.

6. All moneys received by the Commissioners or Sub-Commissioners, whether in stamps or cash, on behalf of the State, shall as soon as possible be deposited with and be accounted for monthly to the respective landdrosts, under whose jurisdiction they fall, before the 8th day of every month.

Deposit of moneys received by Commissioners.

This account shall be accompanied by a copy of the cash book, certified by the Commissioner or Sub-Commissioner covering the period for which he rendered such account.

7. It shall be in the discretion of the Commissioner or Sub-Commissioner of natives to condemn the losing, the winning, or both parties in the costs of the case, and he shall in that respect as far as possible follow the practice and rules laid down for the inferior courts in this Republic.

Award of costs in discretion of court.

8. After a complaint has been lodged and has been properly reduced to writing by the Commissioner or Sub-Commissioner, and the costs as above mentioned have been paid, the Commissioner or Sub-Commissioner shall cause a written notice to be served on the opposite party in lieu of a summons, containing a short résumé of the complaint against such opposite party, and fixing the date and place when the case shall be heard by him, at the same time calling on the opposite party to bring his witnesses with him then and there,

Notice to appear.

9. The complainant shall at the same time be obliged to bring with him his witnesses on the date and place of hearing.

Complainant to bring his witnesses.

10. The parties shall be obliged to have their witnesses then present at their cost, and in case a witness after proper warning by the party interested continues to refuse to appear, the Commissioner or Sub-Commissioner shall enquire whether such witness is necessary, and, if so, the case shall be postponed, after having heard the witnesses present; and (such witness—Trs.) shall be notified by the Commissioner or Sub-Commissioner to appear on a later date and place; and in case such witness still refuses to appear, the Commissioner or Sub-Commissioner shall be competent to have such witness summarily arrested by a Messenger of the Court, after having issued a written order to the messenger to that effect.

If witness absent, case to be postponed.

Arrest of contumacious witness.

11. Any witness may, by reason of such refusal, be punished by the Commissioner or Sub-Commissioner with a maximum of £5 sterling, and not less than the amount of costs caused by such refusal, or in default of payment, may sentence him to imprisonment with or without hard labour not exceeding one month for every fine of £1.\*

Penalty on witness failing to appear.

‡ As amended by Government Notice No. 957, 1906.

\* Erroneously given in Lokale Wetten (p. 363) as £100.

- Witness fees. 12. The witnesses shall receive expenses of travelling and sustenance, as fixed by the procedure for the inferior courts of this Republic.
- Non-appearance of parties. 13. On non-appearance of one of the parties the Commissioner or Sub-Commissioner shall, after proper investigation, finally decide the matter, and in case none of the parties are present, the case shall be dismissed, condemning the complainant in the costs.
- Service of notices and decrees. 14. The Messenger of the Court of the district under which the Commissioners or Sub-Commissioners fall shall see to it that all notices or decrees handed over to him by the Commissioner or Sub-Commissioner are served in the most determined manner, and in everything he must act with calmness and discretion. This service (*exploitatie*) shall be made in accordance with the rules laid down for the inferior courts in this Republic.
- Messenger may substitute. 15. The Messenger of the Court may, on his responsibility and at his expense, subject to the approval of the Commissioner or Sub-Commissioner, appoint a substitute at the place where the notices must be issued, served, or where decrees must be executed.
- Special messengers. 16. In special cases, where such is deemed desirable or necessary, the Commissioner or Sub-Commissioner shall be competent, with the approval of the Government, to appoint and swear in a special messenger, who shall then perform the duties prescribed for Messengers of the Court. No fixed salary shall be paid to such special messenger.
- Remuneration of messenger. 17. The Messengers of Court aforesaid shall receive remuneration for their services according to tariff fixed for the inferior courts.
- Government may order public prosecutor to conduct cases. 18. The Government shall be competent, if such appears desirable or necessary, to order the Public Prosecutor of the district in which the Commissioner or Sub-Commissioner falls from time to time, as circumstances may require, to bring or conduct cases before the courts of the Commissioner or Sub-Commissioner, and further, where it appears necessary, to render permanent assistance, by appointing capable persons, who shall then perform the duties of clerk, public prosecutor, and registrar of the court.
- Execution of judgments and decrees. 19. All judgments or decrees of the Commissioner or Sub-Commissioner shall be executed in accordance with the rules laid down for the inferior courts.
- Appeal. 20.\* The party against whom a judgment has been given shall, if it intends to appeal against same, have such appeal noted with the Commissioner or Sub-Commissioner within eight days after such judgment has been given, and shall be bound to give security to the satisfaction of the Superintendent of Natives.
- To Superintendent of Natives. The Commissioner or Sub-Commissioner shall register such appeal on the record on payment of 7s. 6d. sterling in stamps to be affixed and cancelled against such registration, and shall send the same for further consideration to the Superintendent of Natives according to law.

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\* As to review and appeal, see Act 29, 1907, Section 2.

21. It shall be the duty of the Commissioner or Sub-Commissioner to give information to the parties as regards the contents of this law, and he shall make proper notes hereof† in the records.

Parties to be informed of law.

22.\* The Commissioner or Sub-Commissioner shall, in case of appeal, send in the documents accompanied by a certified copy of the record and his comments to the Superintendent of Natives for further consideration.

Records in appeals.

23.\* All decisions mentioned in the last preceding article, as regards such appeals, shall be executed by the Messenger of the Court in the same way as a judgment of the court in the first instance.

Execution of judgments given in appeal.

24.\* If the appellant neglects to comply with the provisions of these rules and the laws concerned, the judgment of the court in the first instance shall be confirmed.

If appellant in default.

25.\* A report of all native cases dealt with by the Commissioner or Sub-Commissioner shall be sent in monthly by the Commissioner of Natives for the inspection, examination, and information of the Superintendent of Natives, who, after proper examination, shall send in such report, together with his explanations to the Government for information.

Monthly reports.

Such report must be certified as correct by the Commissioner or Sub-Commissioner.

26. All criminal offences of a serious nature shall be enquired into and dealt with according to the provisions of the existing laws. The Commissioners or Sub-Commissioners shall, where there is no public prosecutor, perform the ordinary duties of a justice of the peace, and cause actions to be brought (aanhangig doen maken) before the landdrost courts of their respective districts.

Criminal offences : how dealt with.

If public prosecutors have been specially appointed with such Commissioners or Sub-Commissioners, such case may be enquired into in the first instance before the Commissioner or Sub-Commissioner according to the rules laid down.

27. On the completion of such enquiry the public prosecutor shall forward all papers and documents in connection therewith to the State Attorney for further instructions, who shall be competent to commit the accused for trial before any court in this Republic.

Power of State Attorney.

28. In districts or places where no Commissioners or Sub-Commissioners of natives have been appointed, the respective landdrosts shall take the place of those officials and act in accordance with this law.

Landdrosts to act where no commissioner of natives.

29. All statements of witnesses shall be taken under oath by the chairman of the court.

Evidence on oath.

30. These rules and regulations come into force immediately after publication‡ in the *Staatskoerant*, according to articles eight and fourteen of Law No. 4, 1885.

† Word "hiervoor" erroneously used in Lokale Wetten (p. 364).

\* As to review and appeal, see Act 29, 1907, Section 2.

‡ Published in *Staatskoerant*, 24th January, 1894.

**1895.**

LAW No. 7, 1895.

FOR MAKING PROVISIONS WITH REGARD TO SIGNING OF CERTAIN  
DOCUMENTS AS WITNESSES.

(Approved and enacted by Articles 509 and 510, dated 28th June, 1895, of the Resolutions of the Hon. First Volksraad.)

Preamble.

Whereas it has been deemed necessary to make further provisions about the competency to sign as witnesses, wills, or other testamentary deeds,\* as also notarial and other contracts, deeds and documents, it is hereby enacted as follows:—

Who may witness.

1. Every male person above the age of sixteen years, and competent to give evidence in any court of this Republic, shall be able to attest a will\* or other testamentary deeds\* as also notarial and other contracts, deeds, and documents, subject to the provisions contained in the following articles.

As to witnesses to power of attorney.

2. No person may sign as witness any power of attorney by which he is appointed agent or attorney, or from which he draws any advantage.

3. *Repealed by Ordinance No. 14, 1903, section six.*

4. *Repealed by Ordinance No. 14, 1903, section six.*

5. This law comes into operation one month after publication in the *Staatskoerant*.†

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\* See Ordinance No. 14, 1903, Section 6.

† Published in *Staatskoerant* of 24th July, 1895.

LAW No. 12, 1895.

AMENDMENT OF LAW No. 4, 1887.

(CONTAINING MEASURES AGAINST THE SPREAD OF INFECTIOUS AND CONTAGIOUS DISEASES.)

(Approved and enacted by resolution of the Hon. Second Volksraad, Article 793, dated 3rd July, 1895, and accepted as notice by the Hon. First Volksraad, Article 777, dated 30th July, 1895.)

SMALLPOX.

1. If there is danger of smallpox being introduced into the South African Republic from beyond the State, His Honour the State President shall have the power to cause such precautionary measures to be taken along the boundaries, and to proclaim such regulations\* as His Honour may deem necessary to prevent the introduction of the disease into this State.

Precautionary measures.

2. His Honour the State President is hereby authorised as often as His Honour may deem it necessary for the preservation of the public health, to declare any boundary of the State, any town, any village, or any ward, as infected with smallpox, and to enact and publish such regulations as he may deem to be required, with regard to the traffic over such boundary, or with and from such town, such village or such ward and the limits thereof, and with regard to the precautionary measures there to be adopted. Such regulations shall be in force till set aside by proclamation by His Honour the State President.

Power of State President.

Proclamation of infected area.

3. The Proclamations mentioned in articles *one* and *two* of this law, and any penalties contained in those proclamations, shall have force of law until they have been confirmed, amended, or set aside, by the Volksraad in its first session following the publication.

Proclamations have provisional power of law.

4. Immediately on the outbreak of smallpox in any town, or village, or stand township, the Landdrost or the Resident Justice of the Peace, or the Mining Commissioner or the responsible clerk there, shall notify the same to the State Secretary by telegram, if there is a telegraph office, or otherwise by express, and he shall take such provisional measures as are required, to prevent the further spread of the disease, for the account of the Committee of Health concerned.

Notice by landdrost, etc., of breaking out of smallpox.

5. Should smallpox break out in any ward or on any digging within the State, the Field Cornet or the Assistant Field Cornet of the ward, or the Commissioner of Natives, shall take such provisional steps as are required, for the account of the Committee of Health concerned, to prevent the further spread of the disease, and he shall immediately on its having come to his notice, report the same to the Landdrost of the district, or Mining Commissioner

Ditto by field cornet.

\* See Proclamation, 4th February, 1898 (*infra*).

of the diggings, who shall, without any delay, act as provided in article *four*.

Notice by doctor of breaking out of smallpox.

6. Any doctor, when in the course of his treatment, of a patient he finds that such person is suffering from smallpox, shall immediately give notice of the same to the patient's next of kin if any exist and to the Landdrost or Resident Justice of the Peace of the village, the Mining Commissioner, the Commissioner of Natives, the Field Cornet, or Assistant Field Cornet of the ward (if the patient lives in the country).

Duty of inhabitant, etc., in whose house, etc., smallpox breaks out. Yellow flag.

7. Any inhabitant of this State, in whose house, hut, or kraal, the smallpox may break out, or prevail, shall as a sign of the same and a warning to others, place a yellow flag, as much as possible, visible from all sides, on or near his dwelling or kraal, and at the same time take care that no traffic and no communication takes place between the persons of his household or inmates and others.

When travellers are attacked by smallpox.

8. Travellers must stay at the place where they are attacked by the disease, and if they cannot get quarters at the place where they have arrived the owner or inhabitant of the same shall immediately give notice of the disease to the nearest Field Cornet, Assistant Field Cornet, Resident Justice of the Peace, Mining Commissioner, Landdrost, or Commissioner of Natives, who is obliged to point out a place of residence for the patient, and if the latter is incapable to make provision for his treatment (*verpleging*) (do so—Trs.) for the account of the Committee of Health concerned.

Notice of outbreak by owner or inhabitant of farm.

9. As soon as the disease appears on any farm, whether among the whites or the coloured persons living there, the owner or inhabitant of the farm shall be obliged to give immediate notice thereof to the nearest Commissioner of Natives, Justice of the Peace, Resident Justice of the Peace, Field Cornet, or Assistant Field Cornet, who shall report the same immediately to the Landdrost of the district or the Mining Commissioner of the diggings. The Field Cornet shall further see to it that the case is made known in his ward as soon as possible.

Field cornet may appoint watches where whole household is suffering.

10. In cases where the whole household is suffering from the disease, and can obtain no assistance, the Field Cornet or the Assistant Field Cornet shall have the right to appoint one or more persons to assist such household and for this the Committee of Health concerned, shall, on the necessary declaration by the Field Cornet or Assistant Field Cornet, make payment if required.

Only medical men may be compelled to render assistance.

11. No one, except medical men by calling, shall be compellable to render the services as mentioned in article *ten*.

Report of field cornet to landdrost.

12. The Field Cornet shall report regularly, every fourteen days, upon the state and the progress of the disease in his ward to the Landdrost of the district or the Mining Commissioner of the diggings.

13. In case of absence of means (onvermogen) of any person or coloured person suffering from the disease, the assistance to be granted in the way of medicines and food shall be defrayed by the Committee of Health concerned, provided that a sworn declaration be made that this assistance has been supplied and that the patient or the person supporting him had himself no means.

Expenses of medicine and food to be borne by Committee in case of poverty.

14. The clothes and the bedding or any other article exposed to infection shall be disinfected or burnt by order of the doctor; in the latter case with compensation by the Committee of Health concerned, for the value duly estimated by impartial persons, and the house where the disease has prevailed shall be disinfected, also at the expense of the Committee of Health.

Disinfection or burning of articles used by patient.

15. The Commissioners of Natives and the Field Cornets or the Assistant Field Cornets, shall see to it and take care that no communication or traffic takes place between the inhabitants of Kaffir kraals where the disease has broken out or prevails and others, until the Commissioner of Natives, the Field Cornet or Assistant Field Cornet of the ward has taken the necessary measures with regard thereto, which he is bound to take and to bring into operation without delay for account of the Committee of Health concerned.

No traffic between inhabitants of infected Kaffir kraals and others.

16. The chairman of every Town Council shall be bound as soon as possible after the coming into force of this law to summon a meeting of the inhabitants of the town; such summons shall take place by means of publication at least fourteen days previously in the *Staatskoerant* and by means of posting up a notice in various places in the town. At this meeting five persons shall be elected by a majority of votes as a committee bearing the name of "Committee of Health," and of which the Landdrost or Mining Commissioner, the Chairman of the Town Council, the District Surgeon, and the Field Cornet shall be in addition *ex officio* members. The members of the committee thus elected shall be appointed to that office by His Honour the State President, for the period of two years, and this appointment shall be published in the *Staatskoerant*. When the period of two years of a member thus elected and appointed has expired, he may be re-elected as such.

Election of Committee of Health when there is a Town Council.

*Ex officio* members.

Period of service.

The Landdrost of the district or the Mining Commissioner of the diggings shall see to it that these elections are held regularly.

When a member resigns, or leaves the place, or in any other way thus ceases to be a member, the committee shall have the right to appoint a member provisionally until a re-election takes place.

Provisional members.

Should infection break out in such a town precautionary measures shall be taken by the Committee of Health, and at the same time regulations shall be drawn up for that purpose in accordance with this law and the proclamations issued by His Honour the State President, which regulations, after having been confirmed by His Honour the State President, shall be published in the *Staatskoerant* and immediately thereafter have the force

Committee to take precautionary measures.

Committee's regulations.

of law, for, and within the limits of such town, and the town lands belonging thereto. These regulations shall remain in force until set aside by proclamation of His Honour the State President.

Contents of these regulations.

17. The regulations mentioned in the foregoing article may contain

provisions and restrictions as to public traffic with and within such town or such village ;  
 the taking of measures of disinfection and applying same to persons and goods entering or leaving such town or village ;  
 prohibition and restriction of traffic between coloured persons coming from beyond its limits and residing in such town or village ;  
 authorisation to appoint persons to execute the provisions of the regulations ;  
 authorisation to take measures for the general sanitary condition of the town or village, and for that purpose to inspect the dwellings and grounds of the inhabitants ;  
 authorisation to erect disinfecting houses, hospitals, and segregation buildings ;  
 authorisation to segregate persons infected by the disease or suspected thereof ;

Penalties.

provisions as to the time, the place and the manner of burial of persons who have died of the disease ;  
 penalties for contraventions of the provisions of the regulations mentioned in the preceding article, which penalties, however, shall not exceed a fine of £25, or on non-payment, imprisonment not exceeding three months ; in case the contraventions are by coloured persons lashes not exceeding twenty-five in number may be applied.

And such other measures as may be considered requisite and necessary for the purpose of protecting the healthy, and of giving the necessary assistance to the sick, provided they are not in conflict with existing laws.

Election where there is no Town Council.

18. In villages where no Town Council exists, and in stand townships, the Landdrost or the Resident Justice of the Peace, or the Mining Commissioner, as the case may be, shall, as soon as possible, summon a meeting of the inhabitants of the village, in the manner and for the same purpose as provided in article *sixteen*. The Committee of Health shall in this case consist of three elected members, besides the Landdrost or the Resident Justice of the Peace, or the Mining Commissioner, as the case may be, the Field Cornet, and the District Surgeon, or if there is no District Surgeon, a practising doctor, to be indicated by the Government, as *ex officio* members. For this Committee and the regulations drawn up by them, the respective provisions of articles *sixteen* and *seventeen* of this law apply.

Ditto in wards.

19. The Field Cornets of the different wards shall, as soon as possible after the coming into force of this law, summon a meeting of the inhabitants of such ward in the same manner and for the same purpose as provided in article *eighteen*, at a "place" ("plaats") situated within such ward. The Committee of Health shall in this case consist of three elected members, besides the Landdrost, the Mining Commissioner, the Field Cornets, the

Assistant Field Cornets, the Commissioners of Natives, the District Surgeon, and the practising doctor, if such there be, as *ex officio* members.

For this committee and the regulations drawn up by them the respective provisions of articles *sixteen* and *seventeen* of this law apply.

20. If the inhabitants of a village, or a stand township, or a ward, neglect to appoint such a committee, such shall be done by the Government, and if the Government has objections (*bezwaar*) to appointing the members of such committee, then the persons who otherwise form the *ex officio* members shall compose the whole committee.

Government appoint committee if inhabitants neglect to elect.

21. When deemed necessary His Honour the State President may with the advice and consent of the Executive Council in conflict with the provisions of the two preceding articles appoint Special Committees of Health on the diggings, including the stand townships, which committees shall then have the rights and duties which are granted in this law to the Committees of Health. Such Special Committees of Health shall thus act in the place of the Committees of Health named in this law.

Special committees may be appointed by Government.

The members of such Special Committee of Health shall receive a salary as shall be provided by the Government. Such salaries to be considered as disbursements in connection with this law.

Salaries of committees.

Further, the Government has the power, with advice and consent of the Executive Council, to invest the Committees of Health which exist or may be formed on stand townships or diggings with the rights and duties which are granted in this law to the Committees of Health, and in this case such committees shall take the place of the Committees of Health named in this law. In this case also salaries may be granted by the Government: these salaries then also to be considered as disbursements in connection with this law.

Sanitary Committees may be invested with duties of Health Committees.

22. The members and *ex officio* members of the committee receive compensation for travelling expenses and subsistence incurred as members of the committee according to the existing tariff for ordinary officials.

Travelling and personal expenses.

The members of the committee shall be burghers of the South African Republic.

Members must be burghers. Remuneration.

For each meeting the members and *ex officio* members get paid £1; this payment may not exceed £5 per month.

The committee may appoint a secretary from outside its members.

Secretary.

This secretary gets paid £1 for each meeting.

Fees for sittings and travelling expenses and subsistence are paid by the committee.

Who makes such payments.

23. The half of the expenses which are incurred by the said Committees of Health, exclusively for the purpose and carrying out of this law, as more fully described in articles *four, five, eight, ten, thirteen, fourteen, fifteen, seventeen, twenty-one, and twenty-two*, shall be paid by the Government. The other half of these expenses shall be covered by the proceeds of an extraordinary poll tax.

Who pays expenditure of committee.

Extraordinary poll tax. For this end and also exclusively for this purpose the said Committees of Health are authorised to raise within their jurisdiction an extraordinary poll tax not exceeding ten shillings per annum, to be paid by the male inhabitants, both white and coloured, above eighteen years, the age of coloured persons to be fixed by estimation. For the collection of this tax the same regulations shall apply as those enacted for the collection of the direct taxes, with this proviso that the period of payment is fixed by the Committee of Health, for not less, however, than three months after the amount of the tax to be raised has been made known.

Manner of collection.

Surplus deposited with Treasurer-General. The amount of the tax shall be fixed by estimate as accurately as possible. If the proceeds of this tax exceed the half of the amount of the expenses, the surplus shall be deposited with the Treasurer-General in the name of the Committee of Health concerned, and this surplus may be subsequently used for similar purposes under this law.

Government contributes shortfall.

If the proceeds of a ten shillings tax as described be insufficient to make good the half of the expenses, the Government shall make up the deficiency.

Defraying costs of disease among coloured people.

24. With reference to the foregoing article, it is, however, provided hereby that moneys necessary to cope with an infectious disease prevailing among coloured people shall, as far as possible and in the first place, be collected from the coloured people.

Tax must be confirmed by Executive Council.

25. No tax fixed by any committee for the purposes of this law shall be of force, before the levy of such tax shall have been confirmed by the Executive Council.

Advances by Government.

26. The Government may, after having heard the Treasurer and Auditor-General, make an advance to a Committee of Health for the period of a year.

Regulations also applicable to other epidemic diseases.

27. The regulations of the preceding articles of this law shall also be applicable to all other epidemic diseases if they appear in a form which may be considered specially dangerous. The decision on this point rests with His Honour the State President.

Quarantine for refusing vaccination.

28. In any village or ward where a person refuses to allow himself or his family to be vaccinated after the proclamation to that effect, the committee shall have the right to place the house, hut, kraal, or location, under quarantine, at the expense of such person refusing, until the disease in such village or ward has abated, or until the committee considers such quarantine no longer necessary.

Penalty for opposing vaccination.

When such person refusing also refuses to allow himself or his family to be placed under quarantine, or to obey such order (daar aan), he shall be subject to a fine not exceeding £25, or, on non-payment, to imprisonment for six months.

#### VACCINATION AND RE-VACCINATION.

29. In this portion of the law the following words and expressions shall have the respective meanings hereafter attached thereto, to wit :—

The word "parent" shall include the father and mother of a legitimate child, and the mother of an illegitimate child. The term "vaccine" shall mean vaccine taken from a heifer or a full-grown cow the fifth or sixth day, or from an infant or child the seventh or eighth day after the vaccination, or from any person whom a doctor shall deem suitable, and the subject from whom such vaccine is taken being a healthy infant or child, or a healthy young heifer or full-grown cow, which had not been vaccinated before.

Meaning of word "parent."

30. Every person living or residing in this State, shall be bound, unless prevented by illness, to have himself vaccinated or re-vaccinated in time of danger; the decision as to which rests with His Honour the State President and the members of the Executive Council.\*

Compulsory vaccination.

31. The State Secretary shall cause a supply of healthy vaccine to be always kept at those places which the State President shall determine in order to provide without payment district surgeons and practising doctors with as much of the vaccine as they may reasonably require. The cost of procuring, keeping, and providing such vaccine, shall be paid from moneys which the Volksraad shall grant for purposes of this law.

Supply of vaccine.

32. The State President may issue regulations for free vaccination or re-vaccination by District Surgeons or persons specially appointed as vaccinators, and for the appointing of places where the vaccination must be performed, and also from time to time give notice of the days and hours on which the District Surgeon or another appointed vaccinator shall be present at that place in order to vaccinate those who have so far not been successfully vaccinated, and who may appear there.

Regulations for gratuitous vaccination.

33. When a child or person is found who has not been vaccinated, the person competent thereto shall give order for him to get vaccinated within a period of time to be fixed by such competent person; in case of non-observance the negligent or responsible person shall be subject to a fine not exceeding £10, or, on non-payment, with imprisonment not exceeding six months.

Penalty for neglecting to be vaccinated.

34. The State President may order the vaccination of the inhabitants of prisons, convict stations, lunatic asylums, houses of correction, hospitals, and other places where the poor or sick are received, at the time of their arrival or thereafter, and may declare an age after which vaccination under this article shall not be obligatory.

Vaccination of prisoners, etc.

35. Vaccination with fluid from the vesicles of persons suffering from smallpox is most strictly prohibited.

Prohibited vaccination.

#### SYPHILIS.

36. (a) Every person living or residing in this State, shall, if infected with one of the contagious forms of this disease, in every case (steeds) be bound to have himself treated and cured by a doctor.

Syphilitic patients must have themselves treated.

\* See Proclamation, 2nd September, 1898, in *Staatskoerant* (extra). 2nd September, 1898 (not published), and Proclamation, 29th September, 1898, in *Staatskoerant*, 5th October, 1898 (not published).

Notice of existence of syphilis among coloured people on farms.

(b) As soon as the disease appears on any farm among coloured persons the owner or inhabitant of the farm, shall immediately give notice of the same to the nearest Landdrost, Mining Commissioner, Resident Justice of the Peace, Field Cornet, Assistant Field Cornet, or Commissioner of Natives, who shall then be obliged to act according to law.

In kraals.

In all kraals where Captains or Under-captains exist, they also shall immediately report to the nearest official as soon as the disease breaks out in their kraal, or if it is suspected that any one is infected with the disease. Where no Captain or Under-captain exists, the Field-cornet, Assistant Field Cornet, or Commissioner of Natives shall have the right to appoint one of them as foreman which foreman shall be responsible.

Monthly examination of locations.

(c) The Landdrost of each district and the Mining Commissioner of each diggings shall have the locations of coloured persons in towns or stand townships examined by the District Surgeon at least once a month, and, as often as the Government deem necessary, the locations or places where Kaffirs congregate in each district or on every diggings.

Notice of cases by District Surgeon.

(d) The District Surgeon shall immediately report every case of syphilis discovered by him in the aforesaid examination to the Landdrost or the Mining Commissioner.

Government may point out places of segregation and hospitals.

(e) The Government has the power to designate places where such syphilitic patients shall reside, and to fit up hospitals or portions of hospitals for that purpose, with as far as it is possible separate divisions for white and coloured persons, men, and women. In kraals, a portion of the same may be fitted up for that purpose.

If the space in the places appointed by the Government is or becomes too limited, the respective officials shall be bound to have the infected persons conveyed to other places suitable for that purpose. They shall be obliged to report the same immediately to the Government.

Removal of patient.

(f) The Landdrost of the District or the Mining Commissioner of the diggings shall immediately after receiving the report of the doctor have the person infected with the disease conveyed to one of the places appointed by the Government. He shall at the same time immediately institute an enquiry as to the means of such person.

Segregation of patient.

(g) Such person infected with the disease shall be segregated from the prisoners and all others, and shall remain in the aforesaid place until declared by the doctor sufficiently cured to be able to leave it.

Who bears expense.

(h) The costs of maintenance of such person are paid by the Government, with this proviso, however, that if the person thus infected with the disease, and treated, possesses property, the costs of maintenance may be claimed from him, and on his refusing may be recovered from him by civil process.

Expense in native cases.

(i) The moneys necessary to cope with syphilis among natives shall be claimed from natives only. The regulation of the same is left to His Honour the State President in consultation with the Superintendent of Native Affairs.

37. *Repealed by Law No. 15 of 1897, article fourteen.*

38. The Courts of Landdrosts, Mining Commissioners, and Resident Justices of the Peace, and the Commissioners of Natives in the case of coloured persons, have jurisdiction in any prosecution for the contravention of the provisions of this law or any proclamation, order, or regulation made and enacted under this law, which contravention shall be prosecuted by the Public Prosecutor of the Government. Jurisdiction.

39. Any contravention of any provision of this law, or of any of the provisions of the regulations mentioned in this law, for which no definite fine or punishment has been enacted shall be punished by a fine not exceeding £10 sterling, or, in default of payment with imprisonment not exceeding three months. Penalties.

40. Where mention is made in this law of District Surgeon, this term shall also be taken to include Government Surgeon according to Law No. 4, 1895.\* District Surgeon includes Government Surgeon.

41. All previous laws and provisions in conflict with this law are and shall be hereby repealed. Repeal.

42. This law comes into operation immediately after publication in the *Staatskoerant*.†

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\* Repealed.

† Published in *Staatskoerant* of 14th August, 1895.

## LAW No. 13, 1895.\*

## INSOLVENCY LAW.

(Approved by Resolution of the Hon. the Second Volksraad, Article 901, 19th July, 1895, and accepted as Notice by the Hon. the First Volksraad, Article 850 of 6th August, 1895.)

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## CHAPTER I.

## SEQUESTRATION AND ITS CONSEQUENCES.

Voluntary  
surrender.

1. Every person who desires to voluntarily surrender his estate as insolvent for the benefit of his creditors may apply by written petition to that effect to the High Court or a Circuit Court.

Petition by  
agent of  
absent person.

2. A similar petition may be made—

(a) on behalf of the estate of a person who is absent from the Republic, by the person who is authorised by power of attorney to manage that estate;

By legal  
representative  
of deceased or  
incapable  
person.

(b) on behalf of the estate of a deceased person, or of a person who is legally or actually incapable of managing his estate, by the person who is lawfully charged with the administration thereof;

By majority  
of partners.

(c) on behalf of the estate of a partnership, by the majority of the partners present or represented in the Republic.

Notice of  
surrender in  
*Staats-  
koerant*.

3. He who intends to file a petition as above shall cause due notice of his intention to be published not less than three times in the *Staatskoerant* and in a local newspaper, if there is

\* See Ordinance No. 5, 1905.

one, at least twenty-one days before the hearing thereof, mentioning the date upon which and the place where the petition will be filed. He shall further lodge at the office of the Master of the High Court, and in cases outside the District of Pretoria also at the office of the Landdrost of the district or of the Special Landdrost of the public diggings under whose jurisdiction he falls, a statement of his estate as also all schedules, statements, accounts, and other documents which shall be submitted in support of his petition.

Schedules to be lodged.

The said statement and other documents shall lie for the inspection of creditors at all times during office hours for fourteen days from the date of the *Staatskoerant* in which the first publication above referred to was made.

Inspection by creditors.

No voluntary surrender of an estate shall be accepted unless it has appeared to the satisfaction of the court or of the judge aforesaid that all the above has been complied with, and that there are sufficient assets or funds to cover the preliminary costs of sequestration.

Proof of compliance and of funds to cover costs.

4. As soon as the notice as above has appeared in the *Staatskoerant*, no sale of any property belonging to the estate attached under a writ of execution or otherwise shall take place, except by order of the court aforesaid.

Notice of surrender stays execution.

The high sheriff or other officer of the law charged with such execution shall retain the proceeds of any property which has already been sold in the course of the execution, and not pay out (the same—Trs.) unless by order of the court aforesaid.

5. The court aforesaid may with reference to the application made institute an inquiry, and may for that purpose order the petitioner, and such other persons as it may deem necessary, to appear before it.

Petitioner may be examined before court or commissioner.

The court aforesaid may also entrust such inquiry to a commissioner to be appointed for that purpose, who also shall be competent to cause the petitioner and such other persons as he may deem necessary to appear before him, and who shall transmit to the Registrar of the High Court a report of the inquiry held by him.

6. If the court aforesaid, after enquiry, or, on cognisance of the report of the commissioner, is of opinion that cause has been shown (termen bestaan) for the surrender of the estate, it shall grant an order for the sequestration of the same for the benefit of the creditors in general.

On cause shown, court accepts surrender.

7. Upon a petition showing cause (met redenen omkleed) by one creditor, whose claim amounts to at least £50, or of two or more creditors whose joint claims amount to at least £100, the court aforesaid may, no matter whether those claims are due or not at the time of the petition, grant a provisional order of sequestration of the estate of any person upon the ground that such person has committed any act of insolvency, or upon any other ground which it may deem sufficient.

Provisional sequestration on petition of creditor of at least £50, or two or more of £100.

8. A person shall be deemed to have committed an act of insolvency

Acts of insolvency.

(a) if he, while he has any property, whether movable or immovable, personal or real, within this Republic, departs

Departing with intent to evade payment of debts.

therefrom, or, being out of this Republic, remains absent or departs from his dwelling-house, or in any other way absents himself with the intent, by any of these acts (een en ander) to evade the payment of his debts ;

Not satisfying judgment. (b) if he, on being thereto required by the official charged with the execution of a judgment of a competent court, does not satisfy the judgment obtained against him or does not point out sufficient disposable property to satisfy the same ;

Alienation of property with intent to defeat or prefer creditors. (c) if he alienates either within this Republic or elsewhere any of his property, or constitutes a mortgage, or pledge on the same with the intent thereby to prejudice his creditors in their rights, or with the object of benefiting one creditor above the others.

9. A petition as above mentioned shall be filed in writing in the court aforesaid, accompanied by

Affidavit by creditor supporting his claim. (a) a sworn declaration in writing from every petitioning creditor as to the cause and the legality of his claim ;

Certificate that security has been given for necessary costs. (b) a certificate from the Master of the High Court, or from the Landdrost of the district, or from the Special Landdrost of the public digging where the petition is filed that security has been given to his satisfaction for the payment of the necessary fees and charges for the prosecution of the sequestration to be granted until the election or appointment of a trustee.

10. The creditor or the creditors upon whose petition the sequestration takes place, shall at (his or their—Trs.) own cost, prosecute that sequestration until the election or appointment of a trustee.

Petitioner to prosecute sequestration at own cost until election of trustee.

The costs incurred by them for that purpose shall, after they have been taxed by the Master of the High Court, be refunded to them by the trustee out of the first funds of the estate.

Refund of same.

11. Upon the granting of a provisional order of sequestration, the court aforesaid shall at the same time grant a rule *nisi*, upon the return day of which the debtor shall have to appear to show cause why a final order for the sequestration of his estate shall not be granted by that court.

With provisional order, rule *nisi* granted calling upon debtor to show cause why final order shall not be granted.

That rule shall be served upon the debtor in the usual way.

If, however, the debtor has been absent for forty days from his usual place of residence or business in the Republic, copies of that rule shall at the same time be affixed upon the outer door of the High Court, and published in the *Staatskoerant*.

Service if debtor absent for forty days.

12. The court aforesaid shall, on the return day, allow proof of the facts described in the petition, and adjudge thereon, no matter whether the debtor has appeared to the rule or not.

Return day

This day may be anticipated by the court aforesaid upon application by the debtor after due notice thereof to the opposite party. may be anticipated

The court may also, when sufficient cause is shown (het daarvoor termen vindt) postpone the decision for any reasonable time. or adjourned.

13. When the creditor who has filed the petition fails to appear or to prove his claim, or the alleged (ten laste gelegde) act of insolvency, to the satisfaction of the court, the court may set aside the provisional order of sequestration and dismiss the petition, or require further proof of the facts therein set forth. If the petition is dismissed by the court all matters and questions relating to the estate shall revert to the same condition, and may be dealt with (geregeld) as if no petition for the sequestration of the estate had ever been filed. On default of petitioner, or if act of insolvency not proved, provisional order may be set aside.

14. If it appears to the court that the petition has been made wilfully without good reasons, the court may allow the debtor, on his application to that effect, forthwith to prove all damage which he alleges to have sustained through the provisional sequestration, and award him such compensation for same as it shall deem reasonable, or allow him to institute an action for damages. If petition unfounded and vexatious, court may award damages to debtor.

15. When a provisional order for sequestration has been set aside by the court on the ground that the claims of the petitioning creditor or creditors were insufficient, or in consequence of the consent or the negligence of the petitioning creditor or of a secret agreement between the petitioning creditor and the insolvent, the court may upon request of another creditor who complies with the directions prescribed by the law, order that the said sequestration shall be revived and proceeded with with all the consequences thereof as if the same had never been set aside. In this case, however, every alienation, payment, acquittance (kwijting), surrender (overgave), or discharge made by the insolvent, and every mortgage or pledge by him effected (gevestigd) between the setting aside and the revival of the sequestration shall be judged of (beoordeeld) as if the order for revival were an original order for sequestration. Other creditor fulfilling requirements may move to revive superseded order.

16. If the debtor against whom a provisional order for sequestration has been granted gives to the creditor on whose petition it was granted in order to obtain his assistance in the setting aside of the same, any satisfaction or security for his claim or a portion thereof, whereby the latter receives more than the case would have been if the sequestration had been proceeded with, such debtor commits a new act of insolvency. Saving transactions taking place during interval.

The creditor who has accepted such satisfaction or security shall, if the sequestration is revived at the request of another creditor have to surrender his security obtained as above and repay for the benefit of the estate what has been received by him as above, to the person whom the court shall indicate. Agreement between debtor and petitioning creditor unduly benefiting latter constitutes fresh act of insolvency.

He shall moreover pay the costs incurred for the revival and forfeit the whole of his claim against the estate. Such creditor forfeits his claim.

Sequestration of estate of a partnership.

17. In like manner, and with observance of the above provisions the estate of a partnership may be placed under sequestration on a petition of one or more creditors, showing cause (met redenen omkleed) on the ground that any act of insolvency has been committed by one or more of the partners, or on any other ground which the court aforesaid shall deem sufficient.

Rights of creditors of individual partners reserved.

Independently of such sequestration it shall be open to the creditors of any separate partner to proceed against the separate estate of any such partner in the ordinary manner, for what is owing to them by him personally.

Separate estate of partners may be sequestrated with partnership estate.

18. The court aforesaid has, however, the power to include in the same order for sequestration the separate estate of one or more partners as well as the joint estate of the partnership.

In this case the creditors of the partnership and those of the separate partners shall be equally entitled to vote in the election of trustees, and in all other matters relating to the said estates.

But accounts to be kept separate.

The trustees shall, however, separately administrate and liquidate each estate in accordance with the directions to be given hereafter.

Compulsory sequestration of estates of deceased or incapable persons.

19. In like manner and upon due observance of the above provisions, the estate of a person deceased, or of a person legally or actually incapable of the administration of his estate, may on a petition of one or more creditors showing cause (op een met redenen omkleed verzoek) be placed under sequestration on the ground that the person who is legally charged with the administration of such estate has committed any act of insolvency, or upon any other ground which the court aforesaid shall deem sufficient.

Partners and administrators of estates to have same rights and obligations as creditors.

20. Every partner in a partnership, and every person legally charged with the administration of an estate of a deceased person or of a person legally or actually incapable of the administration of his estate, shall have the same rights and obligations in respect to the claims of such partnership or such estate against any estate which is placed under sequestration, as are granted to and imposed upon any creditor by this law.

But joint partners or administrators have only one vote.

The joint partners, however, of a partnership, and the joint administrators of any estate as above referred to, shall be considered as one person only and shall be entitled to only one vote.

Order of sequestration to be lodged with Sheriff or deputy.

21. He who has obtained an order for sequestration, either of his own estate or of the estate of his debtor, shall immediately lodge that order at the office of the High Sheriff of the High Court at Pretoria, or of the Deputy Sheriff of the district in which the order has been granted.

Registration of order by Deputy Sheriff. Transmission to Sheriff.

22. The Deputy Sheriff shall, after having registered the order lodged with him, and having noted thereon the day and the hour of lodging, immediately transmit the same to the High Sheriff.

Transmission to Master.

The High Sheriff shall immediately transmit every order lodged with him or received by him from a Deputy Sheriff, to

the Master of the High Court after having registered the same and having noted thereon the day and the hour of the lodging or receipt.

The Master of the High Court shall publish the order in the *Staatskoerant*.

Publication of order in *Staatskoerant*.

23. He who has obtained an order for sequestration of his estate upon his own request shall, within eight days after the granting thereof, transmit to the Master of the High Court a list containing, to the best of his knowledge, the names and places of abode of all his creditors.

Upon voluntary surrender, insolvent to lodge list of creditors with Master.

24. The Master of the High Court shall, through the High Sheriff or his subordinates, or through the Messenger of the Court hereafter to be referred to, cause an attachment to be laid upon every estate placed under sequestration and cause an inventory to be made thereof.

Upon sequestration Master to cause attachment of estate to be made.

When the order of sequestration has been granted at the request of a creditor, such creditor or some person authorised by him may be present at the framing of the inventory.

Petitioning creditor may be present.

When the order of sequestration has been granted after voluntary surrender of the estate, every creditor or some person authorised by him may be present at the framing of the inventory.

25. The person charged as above with the attachment may, if such is possible without causing hindrance or inconvenience to any party, secure the movable property belonging to the estate by sealing up the room, cupboard, or repository where they are found, or by appointing a custodian over such property.

Duty of officer making attachment.

If he, however, leaves such property in the possession of the person who has charge of the same at the moment of attachment, he shall hand to the latter a copy of the inventory together with a notice that the property therein specified has been attached by him by virtue of an order for sequestration. In this notice the penalty provided under article *one hundred and fifty* shall be mentioned.

He shall report all that has been done by him as above to the Master aforesaid.

26. Every order of sequestration has the effect in law that the estate passes into the hands of the Master of the High Court, and remains vested in him (*bij dezen blijft berusten*) until a provisional trustee has been appointed or the election of a final trustee has been confirmed.

Sequestration vests property in Master until appointment of trustee.

The Master of the High Court shall during that time have the same power and the same duties in respect of the estate as are given and imposed by this law upon the trustee elected by the creditors.

27. During the period between the date on which the order of sequestration is granted and the date on which the liquidation account and the final plan of distribution of the estate are confirmed, the insolvent shall as long as he has not been rehabilitated (save in the cases to be hereinafter mentioned) be absolutely incapable of acquiring or possessing as against his trustee or other lawful administrator of his estate, any property, whether movable or immovable, personal or real, or any right to such property, or

Unrehabilitated insolvent unable to acquire property against trustee before confirmation of liquidation account, or to deal with property of estate.

of alienating, binding (verbinden), or pledging any property belonging to the estate, so as thereby to bind his trustee or other lawful administrator of his estate.

Further no attachment can be laid on the estate or any portion thereof during the aforesaid period.

Insolvent cannot bind himself without written consent of trustee.

28. During the period aforesaid the insolvent shall in nowise be able to bind himself except with written consent of his trustee, or other lawful administrator of his estate.

But may be mandatory of trustee or other person.

He shall, however, be competent to pass lawful title by virtue of any alienation as above referred to, in so far as he shall have thereto been authorised in writing as the mandatory or the agent of his trustee or other lawful administrator of his estate, or to act, with the written consent of the latter, as mandatory or agent of another person from whom he shall have obtained a written authority as such.

Or carry on trade for support of himself and family.

He shall also be entitled, in order to provide for the support of himself and of his family, to carry on trade, and to this end to deliver movable goods or effects by virtue of an actual and bona fide sale on payment of a reasonable purchase price, or to pass title to money paid by him in cash in connection with the purchase of a thing. The trustee or other lawful administrator of his estate shall, however, be able to claim from the insolvent for the benefit of the joint creditors, if necessary by legal process, so much of the profits made by him by means of such trading as will be left after deduction of that which is strictly necessary for the support of himself and his family.

But trustee may claim profits not necessary for support.

Insolvent may receive for his own work, or that of his family, or any pension. Or damages for personal injury.

He shall also have the right in his own name to receive and sue for the hire, or the wages for the labour or service performed by him, or any of his family, as also any pension granted to him for labour or service previously performed, or so much thereof as the High Court shall determine. He shall also be entitled to claim damages for an insult or any personal wrong done to him or any of his family. The moneys so (te dier zake) adjudged to him as also all goods purchased by him with such moneys shall be for his personal use and remain free from the control (beheer) of his trustee or other lawful administrator of his estate.

Life policy in force two years free from sequestration.

The policy of any life insurance bona fide effected by the insolvent for the benefit of his wife or children at least two years before the granting of the order of sequestration, shall be excluded from the sequestered estate, and be left to the insolvent, saving the lawful rights obtained thereto by others.

Sequestration stays execution of judgments.

29. The execution of all judgments against the insolvent or his estate shall be stayed from the moment that the order of sequestration has been lodged with the High Sheriff or a Deputy Sheriff, and further as long as the sequestration continues.

And discharges insolvent from civil imprisonment.

If the insolvent is in prison by virtue of an order of civil imprisonment, he shall upon petition to the High Court or to a Circuit Court to that effect, be discharged from such imprisonment unless the court decide otherwise.

Property attached or its proceeds to be returned to estate.

The property of the insolvent which has been attached in execution of a judgment as above mentioned, or the proceeds thereof, shall be returned to the sequestered estate.

30. The creditor in whose favour a judgment as above was given may prove his claim and the costs in the sequestrated estate.

Preference of judgment creditor for costs of execution.

He shall be entitled on the distribution of the estate to preference on the goods attached as above, or the proceeds thereof, for the costs of the writ of execution and the execution itself, but not for the amount awarded to him by the judgment, or for the costs incurred before the taking out of the writ of execution.

31. All actions pending against any insolvent for any debt, and all proceedings therein, shall be stayed after an order of sequestration has been granted.

Actions pending against insolvent stayed.

The plaintiff in the action may prove his claim together with the taxed costs up to that time, against the sequestrated estate.

Plaintiff may prove his claim with taxed costs.

All actions pending against the insolvent for recovery of damages sustained through insult, wrong (*verongelijking*), or breach of a contract which damages are still uncertain, or for recovery of any claim for an unliquidated amount, and all proceedings therein, shall be stayed until a trustee shall have been elected, and may thereafter be proceeded with against the latter.

Actions for unliquidated damages stayed until trustee appointed.

The claims thereupon allowed by the court, together with the taxed costs of suit may be proved against the sequestrated estate.

32. After an order of sequestration has been granted, all actions commenced by the insolvent on any claim for debt and all proceedings therein shall be stayed until a trustee shall have been elected.

Actions by insolvent stayed until trustee elected.

The trustee shall, within six weeks after having been thereto called upon by the defendant in such action, decide whether he will continue or abandon the action commenced on pain of losing his rights to continue the same (*tot verder procedeeren*).

Trustee to elect to prosecute or discontinue such actions within six weeks.

The insolvent shall, however, remain competent to continue in his own name and for his own benefit any action commenced prior to the sequestration for an insult or any personal wrong done to him or any of his family.

Insolvent may continue in his own name actions for personal injury, for his own benefit.

The damages which shall be awarded to him in such action shall not be included in the sequestrated estate.

33. Every alienation of, and every mortgage or pledge of any portion of the estate, made or constituted by the insolvent at any time when he could expect the sequestration of his estate, is void unless such act was done in good faith and for lawful consideration.

Gratuitous alienations, etc., in contemplation of sequestration void.

When an act as above is the cause of the debts exceeding the assets it shall be void in so far as such (*dit laatste*) is the case.

34. Every alienation of any portion of the estate, and every payment made by the insolvent to a creditor, and every mortgage or pledge constituted by him for the benefit of a creditor on any portion of the estate, in the ordinary course of trade shall, although

Alienation in ordinary course of trade *prima facie* good.

he could at that moment expect the sequestration of his estate, be prima facie deemed to have been made in good faith and without the intention of benefiting such creditor above the others.

Unless intention to prefer proved.

The trustee who desires to have such transaction set aside shall have to prove the existence of such an intention.

Payments made or facilitated by insolvent contemplating sequestration and with intent to prefer, void.

35. Every payment received by a creditor before the granting of the order of sequestration, of which it has been proved that it has been made or facilitated by fraudulent assistance or connivance (verstandhouding) of the insolvent who, while he could expect the sequestration of his estate wished thereby to procure for such creditor a preference above the other creditors, is void.

Mala fide discharges of debts by insolvent void

36. Acquittance or discharge of any lawful debt, or of any security for a lawful debt or other matter, for which a real and bona fide payment or satisfaction has not been received, made by the insolvent at a time when he could expect the sequestration of his estate and by which his creditors are prejudiced (benadeeld), is void.

and debtor collusively accepting same liable to pay double.

He who accepts such acquittance or discharge while he knew or could reasonably suspect that the creditors would be prejudiced thereby, shall be bound not only to make good his debt, but also to pay to the trustee once again for the benefit of the creditors the value of what has been unlawfully remitted to him.

Alienations, etc., by insolvent contemplating sequestration and with intent to prefer, declared an undue preference and void.

37. Every alienation of any portion of the estate, and every payment made by the insolvent to a creditor, and every mortgage or pledge constituted by him for the benefit of a creditor upon any portion of the estate at a time when he could expect the sequestration of his estate, with the intention to benefit such creditor, directly or indirectly, above the other creditors, constitutes an undue preference, and is consequently void.

Trustee may recover from person benefited.

Every alienation made by the insolvent as above, and every mortgage or pledge constituted by him in favour of any person whomsoever as above, with the intention thereby to benefit one of his creditors directly or indirectly, above the others, constitutes an undue preference, in so far as such creditor is thereby actually benefited.

Alienation, etc., with intent to prefer surety, void.

The trustee is entitled to recover the amount or the value of such undue preference from the creditor or other person benefited thereby.

Trustee may recover from person preferred.

38. Every alienation of any portion of the estate, and every payment made by the insolvent, and every mortgage or pledge constituted by him upon any portion of the estate at a time when he could expect the sequestration of his estate, with the intention of benefiting any person who would have been liable as surety or in any other quality by law analogous thereto, for the amount of such transaction if it had not taken place, constitutes an undue preference.

The trustee is entitled to claim from the person so preferred the amount or the value of such undue preference.

39. No benefit bona fide given by any person under a duly registered ante-nuptial contract, to his wife or children, shall lose its effect (kracht) by reason of the sequestration of his estate, save when the order of sequestration is granted within two years after the registration of that contract, and it is proved that at the moment of the execution thereof the said person was actually already insolvent, in which case such benefit shall be void, and may be claimed by the trustee for the benefit of the sequestered estate. With regard to ante-nuptial contracts which have already been registered at the time of the coming into operation of this law, the period of two years aforesaid shall commence to run from the date of such coming into operation.

Benefits under ante-nuptial contract secured, unless sequestration within two years and person proved not solvent at that time.

40. Every alienation of any portion of the estate, and every payment, acquittance, or discharge of any lawful debt made by the insolvent, or of any security for such debt, or other matter (zaak) belonging to the estate, and every mortgage or pledge by him constituted on any portion of the estate, after the granting of the order of sequestration and before the confirmation of the final plan of distribution of the estate, is void, except in so far as the insolvent was thereto entitled by virtue of the provisions of article *twenty-eight*.

Alienations, etc., by insolvent after sequestration void, save as excepted under section *twenty-eight*.

41. All payments or satisfactions made to the insolvent by or on behalf of one of his debtors after the granting of the order of sequestration, are void, save when the person who bona fide made such payment or satisfaction had no knowledge of such sequestration.

Payments to insolvent void except when bona fide and without knowledge of sequestration.

42. He who has sold and delivered or caused to be delivered to an insolvent any property, whether movable or immovable, personal or real, may if the sale has taken place without determining a period before the expiration of which the price should not be payable, or with an express or tacit agreement (werklike afspraak of stilzwijgende overeenkomst) that the price shall immediately be paid, or be payable, reclaim such property out of the sequestered estate if he notifies such claim in writing within twenty-one days after delivery of the property.

Goods sold and delivered to insolvent not on fixed terms of credit may be reclaimed within *twenty-one* days.

After that period he may institute such reclamation only upon the ground of fraud committed against him by the purchaser.

After *twenty-one* days only on ground of fraud.

He who has sold on credit and delivered any property as aforesaid to the insolvent shall not be entitled to cancel that sale or to claim the purchase price from the trustee or other lawful administrator of the estate. The property thus sold and delivered shall remain with the latter for the benefit of the estate.

Sales on credit.

43. Upon the granting of an order of sequestration the leases and contracts of lease entered into by the insolvent as lessee before that time do not lapse.

Leases do not lapse on insolvency, but trustee may elect within six weeks.

The trustee shall, however, have to decide within six weeks after the confirmation of his election in consultation with the

In default of election they lapse.

creditors, whether he will carry out those leases or contracts of leases or not, in default whereof they shall be regarded as lapsed.

Lessor may sue for rent and damage.

The lessor or other person who has made such contract may in any case summon the trustee before any competent court for the recovery of the rent due up to that time or for the damages which he shall prove to have sustained by reason of the non-performance of such lease or contract of lease.

Trustee may sue lessor for improvements.

The trustee on the other hand has the right to summon the lessor or any other person who made such contract before any competent court for the recovery of the amount of the improvements which were made before the sequestration upon the property leased.

## CHAPTER II.

### MEETINGS OF CREDITORS.

Meeting of creditors for proof of debts and election of trustee.

44. The Master of the High Court shall, in the notice referred to in article *twenty-two*, at the same time fix two public meetings of creditors at times and places as may appear to him most convenient in the interest of the creditors; the first for the proof of the claims, the second for the same purpose and also for the election of a trustee.

He may still make an alteration in the times and places fixed as above, provided he gives timely notice thereof in the *Staatskoerant*.

If assets not above £75, one meeting only.

When the assets of the estate do not exceed the value of £75 he shall at the same time give notice hereof in the abovementioned publication, announcing that unless it be shown at the first meeting that the assets of the estate do exceed the said value, the proceedings of such meeting shall be regulated by article *forty-seven*.

Third meeting, for proof of debts and report of directors to trustee.

45. The Master of the High Court may, as soon as the election of a trustee which has taken place at the second meeting of creditors has been confirmed, decide that a third meeting shall be held at (such—Trs.) time and place as shall appear to him most convenient to all persons interested, for proving the claims, for receiving the report of the trustee as to the state of the insolvent estate, and for giving orders to the trustee as to the administration thereof.

The trustee shall give notice in the *Staatskoerant* in the same advertisement in which he notifies the confirmation of his election as trustee, of the time and the place as also of the purpose of this meeting.

Special meeting called by creditor.

46. Every creditor may, after the second meeting of creditors, at his own expense, call another meeting in order to prove his claim.

When assets do not exceed £75.

47. When it appears at the first meeting of creditors that the assets of the estate do not exceed the value of £75, a trustee shall be then immediately elected in this meeting, the claims proved and ranked, and the estate distributed. At the same time it shall then be decided what part of the wearing apparel, the bedding, the furniture, and the tools of the insolvent and his family shall be allowed to them.

48. If no creditors have appeared at the meeting at which a trustee has to be elected, the Master of the High Court shall apply to that court with the request to appoint a trustee for the liquidation of the estate, or to set aside the order of sequestration.

If no creditors appear, sequestration set aside upon report of the Master.

49. The meetings of creditors shall, in so far as they take place at Pretoria, be presided over by the Master of the High Court, and in so far as they take place elsewhere be presided over by the Landdrost of the district, or the Special Landdrost of the public digging.

Meetings in Pretoria held before Master, in other districts before Landdrost.

The presiding official has the right to adjourn the meeting, if necessary.

Adjournment of meeting.

50. When the Master of the High Court, the Landdrost or the Special Landdrost, is prevented by illness or any other unavoidable cause from conducting (leiden) a meeting of creditors, the High Court or a Circuit Court may appoint a Special Commissioner for such purpose who then in that respect shall have the same power as the Master, or the Landdrost or Special Landdrost aforesaid.

In absence of Master or Landdrost, court appoints a Commissioner to hold meetings.

In default of such appointment the first clerk of the Landdrost or Special Landdrost as above, shall be charged with conducting such meeting.

In default of such appointment, chief clerk to act.

51. The Landdrost, Special Landdrost, Special Commissioner, and clerk, shall forthwith report to the Master of the High Court as to everything done by them in their aforesaid capacity.

Landdrost, Commissioner, or clerk to report to Master.

52. In all cases where creditors vote by virtue of this law, the vote of a creditor whose claim amounts to less than £30 shall not be reckoned in the number of votes given, but the amount of his claim shall be taken into account at the voting.

Votes—creditors below £30 reckon in value only.

Every creditor may give his vote personally or he may have this done by another who has been duly authorised by him thereto by power of attorney.

Creditor may be represented by agent.

All decisions shall be determined by a majority in value of the claims of the creditors who are present and entitled to vote, unless otherwise expressly provided in the law.

Majority in value decide, unless otherwise provided.

53. The insolvent, or the lawful administrator of any estate which is placed under sequestration, shall of his own accord appear at the first, second, and third meeting of creditors held by virtue of this law, as also at every meeting continued after adjournment, unless he has obtained leave from the presiding official not to attend the latter.

Attendance of insolvent or of representative of estate at meetings.

He shall further have to appear at every other meeting of creditors held by virtue of this law, if he shall have been required so to do by a written notice from the presiding official.

54. The insolvent is obliged at every meeting which he attends to answer all such lawful (geoorloofde) questions as shall be put to him by the presiding official concerning his affairs and his estate, and concerning the causes and reasons of his insolvency.

Insolvent to answer all lawful questions.

Must lodge inventory at second meeting if thereto required.

He shall at the second meeting, on demand by the creditors, lodge with the presiding official a true inventory of his estate, in which a true return is made of all his property, either movable or immovable, personal or real, wheresoever the same may be, of all property and effects which are still expected by him, or the acquisition of which is as yet dependent on any circumstance, or to which he has any right, further of all that is due by or to him, to the best of his knowledge, as also of all books, accounts, vouchers, and other documents relating to the estate which are in his possession.

Also surrender books, vouchers, etc.

He shall further, if thereto required, hand over the said books, accounts, vouchers, and other documents to the presiding official.

The presiding official shall hand over the inventory as well as the said books, accounts, vouchers, and other documents to the trustee as soon as the latter's appointment has been confirmed.

Insolvent may be examined on oath.

55. The presiding official as also every creditor, or his attorney or agent, may at any meeting examine the insolvent, upon oath, if he has appeared, concerning all matters relating to his trade, affairs, or estate, which may tend to disclose a secret alienation or concealment of his estate, or a portion thereof. The presiding official shall cause this examination to be reduced to writing, to be signed by the insolvent and attached to the documents concerning the estate.

If insolvent suspected of culpable or fraudulent insolvency, papers to be sent to State Attorney.

If it appears at such enquiry that there is reasonable cause for suspecting that the insolvent has been guilty of culpable or fraudulent insolvency, the presiding official shall be obliged to transmit the statements of the insolvent, with the other vouchers to the State Attorney in order to enable the latter to take the necessary steps thereon for a criminal prosecution of such insolvent.

Insolvent must answer incriminating questions.

The insolvent is not entitled at such enquiry to refuse to answer any question put to him concerning his estate on the ground that he would incriminate himself by his answer.

### CHAPTER III.

#### PROOF AND RANKING OF CLAIMS.

Debts may be proved at any meeting.

56. Every claim against the sequestrated estate which existed or the cause of which arose prior to the granting of the order of sequestration, may be proved at each meeting of creditors, held before the final distribution of the estate.

Dividends paid before proof of any debt not affected by such proof.

The proving, however, of any claim at a meeting as referred to in article *forty-six* shall have no effect on or prejudice (afbreuk doen) payments which shall then already have been made. When such claim is proved after the plan of distribution has already been confirmed, and in consequence of the proof of such claim alterations in such plan or in any further proceedings in the sequestration have to be made, the creditor whose claim is proved as above is liable for all costs caused by such alteration.

Expense of alteration of filed account made necessary by late proof to be paid by creditor.

57. Every creditor shall prove his claim to the satisfaction of the presiding official who shall admit or reject the same.

Presiding officer admits or rejects proof of debt.

Such proof shall be furnished by an affidavit of a creditor sworn before the Master of the High Court, a Landdrost, a Justice of the Peace, or any Commissioner specially appointed by the High Court for administering oaths. In that declaration the creditor shall state the amount and the nature of the debt, the persons who, besides the insolvent, are liable for that debt, the mortgages or other security given for that debt, and shall at the same time depose, at all events to the best of his knowledge, that the debt is a true and lawful debt, and that all vouchers which he shall produce as to same with that affidavit are genuine.

Proof to be supported by affidavit.

Affidavit to state security held for debt, if any.

Vouchers to be produced.

58. An affidavit as above may also be made by a clerk, agent, or other person who is more fully cognisant with the said debt than the creditor himself.

Affidavits may be sworn by others than creditor.

A creditor who is out of this Republic, and has no known agent or mandatory in the Republic, may make an affidavit for the proof of his claim before any person competent to administer oaths in the place where he resides. Such affidavit must be legalised in the usual way or certified in the manner customary in the High Court.

Affidavit of proof by absent creditor.

59. Every person interested may appeal to the High Court or a Circuit Court against the decision of the presiding official as to the admission or rejection of any claim.

Appeal to High Court as to admission or rejection of debt.

The court aforesaid shall then give a final decision as to the admission or rejection of such claim. Before deciding finally, however, it may remit the case to the presiding official for further proof or may order that the validity of the claim be tried in such manner as it shall deem advisable.

Court's decision final. But court may require further proof, or direct action to try validity of claim.

The court aforesaid may also order that an action against the insolvent which has in consequence of the sequestration been stayed, shall after the election of a trustee be proceeded with against the latter. The creditor whose claim has been allowed by the court aforesaid shall be ranked on the estate for same.

Court may also direct action against insolvent, stayed by sequestration, to be proceeded with.

60. When mutual credit or mutual claims exist between the insolvent and a creditor, the presiding official shall strike the balance of same and the creditor shall be ranked for the balance if it is in his favour; provided that at the moment the credit was given or the cause of his debt arose he had no knowledge of the granting of the order of sequestration.

When there are mutual credits, presiding officer strikes balance, and ranks creditor for same.

Every person interested who considers himself prejudiced by a decision as given above by the presiding official may appeal against the same to the High Court or a Circuit Court, which

Appeal to court by person aggrieved.

shall pronounce such final judgment thereon, or may direct such further proceedings as it shall deem equitable.

Future debt provable, less rebate of interest at six per cent.

61. The creditor whose claim was not yet payable (opeischbaar) at the date of the granting of the order of sequestration may prove that claim. He shall, however, only receive payment or dividend for same after deduction of a rebate of interest at six per cent. per annum, to be computed from the date of the granting of the order of sequestration to the date when such debt would be payable (opeischbaar). The debt for the amount so reduced shall also be taken into account at the voting.

Reduced amount counts in voting.

Secured creditor must state securities, value same, and deduct amount from proof.

62. The creditor who has any conventional (verleende) or tacit preference upon any part of the estate is obliged if he applies for the sequestration to make mention of such preference in the affidavit accompanying his petition, and otherwise in the affidavit of proof of his claim. If he has any security for his aforesaid preferent claim he shall at the same time value the same and deduct the amount of that valuation from the claim proved by him, without prejudice, however, to a subsequent emendation of that valuation, and without prejudice to the amount of his claim in other respects. He may vote for the full amount of his claim in the election of trustees and in all matters concerning the property over which he holds such security; in all other cases however, only for the balance. He shall be ranked and receive payment or dividend for the balance. If a dispute arises about the value of such security, the creditor shall value the same on oath. The trustee has then the option of either taking over that security for the benefit of the joint creditors against payment of the amount of the valuation out of the assets of the estate, or of leaving the full realisation (uitwerking) of the security to the creditor.

Votes for full amount at election of trustee and in dealing with securities.

Trustee's option to take over securities.

Contingent creditors cannot petition or vote until contingency happens.

63. A creditor whose claim depends upon an uncertain future event or upon a condition is not entitled to petition or join in the petition for sequestration of an estate, or to vote at the election of trustees, or on any other matters concerning the estate, so long as that event has not taken place or that condition fulfilled.

Trustee to value claim, and creditor may prove and vote upon such value.

The trustee shall, however, at his request value such claim and admit it for the amount of that valuation. The creditor aforesaid is then entitled to vote, and to receive payment or dividend for the amount of that valuation.

If contingency happens, then creditor ranked for whole amount.

If in the meantime the event takes place or the condition is fulfilled,\* then the creditor aforesaid shall be ranked for the full amount of his claim, and also receive payment or dividend for same.

\* In text "vermeld" which should clearly be "vervuld." See also marginal note.

64. When such a conditional claim has not been valued as above, the trustee shall rank the same as if the event had taken place or the condition had been fulfilled. The court shall in such case, upon the petition of the trustee grant an order for securing the amount or the dividend to which the creditor shall be entitled as soon as the event shall have taken place or the condition shall have been fulfilled. All interest which is received in the meantime on that amount accrues to the benefit (komt ten bate) of the other creditors. At the voting on an offer of composition a debt ranked as above shall be taken into account at an amount to be fixed by the Master of the High Court subject to an appeal to that court.

Creditor on unvalued conditional debt ranks as if contingency happens. Dividend secured until contingency happens. On voting as to composition, claim ranks as valued by Master.

65. When the High Court is of opinion that a creditor who by reason of absence of any person from this Republic, or for any other cause was not able to prove his claim to the satisfaction of the court may nevertheless later be able to do so, it may cause such claim to be provisionally ranked on the sequestrated estate, grant the creditor a reasonable time for still proving the same, and in the meantime make an order for securing the amount thereof in case the claim shall be afterwards proved.

When court holds that a debt may eventually be established, it may order claim to be provisionally ranked.

66. Claims upon which interest has been stipulated shall be ranked for an amount of the capital sum increased by the interest due thereon.

Ranking of interest.

67. When the estate of a partnership and the estate or estates of one or more of the partners shall be concurrently placed under sequestration, the ranking of the claims of the different creditors shall take place in accordance with the following rules:—

Ranking of creditors on partnership and private estates of partners.

(a) The claims of the creditors of the partnership shall be ranked upon the estate of that partnership, and the claims of the creditors of each partner separately upon his separate estate;

Partnership creditors on partnership estate, private creditors on private estate.

(b) if there are no assets in the estate of the partnership or not sufficient assets to satisfy the creditors of that partnership, the claims of those creditors shall be ranked upon the surplus of each estate of the separate partners which may remain after all claims of the creditors thereof shall have been satisfied; and such (en wel) for the balance or for the whole, provided however, that no creditor may receive the amount of his claim more than once;

Unsatisfied partnership creditors rank on surplus of private estate.

(c) if there are no assets in the separate estate of a partner or not sufficient assets to satisfy the creditors of that estate, the claims of such creditors shall be ranked upon the surplus of the estate of the partnership which shall remain after all claims of the creditors thereof shall have been satisfied; and such (en wel) in proportion to the share in such surplus to which the said partner would be entitled;

Unsatisfied private creditors rank on surplus partnership estate.

Trustee of estate to rank on other partner's estates for amount paid by each private estate towards partnership liabilities.

Partnership creditor may prove and vote in private estate.

But gets no dividend before private creditors are paid, unless he petitioned for sequestration of private estate.

In cases not provided for, general principles of law apply.

Assets applied to:  
 (1) Payment of costs.  
 (2) Preferent claims with interest.  
 (3) Capital of concurrent claims.  
 (4) Interest on same.

Appointment of provisional trustee.

Estate vests in provisional trustee if appointed.

(d) if in the case specified under (b) the creditors of the partnership receive payment wholly or in part out of the surplus of the separate estate of one of the partners, the trustee of the latter's estate shall be ranked as creditor upon the estate of each of the other partners for the whole amount which he has paid out in satisfaction of the claims against the partnership; such however without prejudice to the rights of preferent claims;

all this without prejudice to the rights of the creditors of the partnership against each partner whose estate has not been placed under sequestration, and vice versa.

68. The creditors of a partnership, no matter whether the estate of same has been sequestrated or not, may prove their claims in the separate sequestrated estate of one of the partners, for the purpose of voting at the election of trustees and on any offer of composition.

They shall however receive no dividend out of such separate estate before the creditors of that estate have been paid in full, unless the order for the sequestration of that estate has been granted upon their petition.

69. In so far as no provisions have been made by this law as to the mutual ranking of the creditors of a partnership and of those of the separate estate of any partner, the general principles of law shall apply.

70. The assets of the estate shall, after payment of the lawful costs as hereinafter provided, be applied: in the first place to the payment of the preferent claims with such interest due thereon as may be preferent according to the law; and thereafter to the payment of the capital sums of all concurrent claims without interest if the assets are insufficient to satisfy all the claims against the estate, but with interest from the date upon which the order of sequestration was granted, if there should be a surplus left after satisfying all claims.

## CHAPTER IV.

### PROVISIONAL AND ELECTED TRUSTEE.

71. The High Court or a Circuit Court may, upon a petition showing cause by the Master of the High Court, or any person interested, appoint one or more fit persons as provisional trustee of any estate, whether provisionally or finally sequestrated.

Such estate shall thereupon pass out of the hands of the Master of the High Court to the provisional trustee so appointed, and remain vested in him, until the election of a final trustee by the creditors shall have been confirmed and otherwise until the account and the final plan of distribution of the estate shall have been confirmed.

If a provisional trustee dies or is removed before that time, the estate shall again revert to the Master of the High Court.

If removed, estate reverts to Master.

72. The provisional trustee shall have the same power and the same duties in respect of the administration and management of the estate as the trustee elected by the creditors.

Powers of provisional trustee.

He shall, however, not be permitted to sell any part of the said estate without the authority of the High Court or of a Circuit Court.

He may not sell without authority of court.

73. At the second meeting of creditors one or two trustees shall be elected for the administration and the management of the estate by the majority of the creditors present, whose proved collective claims also (tevens) amount to more than one-half of the total amount of all proved claims represented at that meeting.

Election of trustee or trustees by majority of creditors at second meeting provided more than half of proved claims are represented.

When the above result cannot be attained at the voting, the person who has obtained (op zich heeft vereenigd) the votes of the greatest number of creditors, as well as the person who has obtained the votes of the creditors holding the largest amount of the claims represented, shall have been elected as trustee.

If no result attained, person receiving majority in value and person receiving majority in number are jointly elected.

74. Every person interested who has objections against such election may upon notifying his objection in writing to the presiding official, before the election is confirmed, but in any case within two days after it has taken place, bring the same in review before the High Court, which shall decide summarily upon the matter.

Review of election by court.

After the election has already been confirmed every person interested may still apply to the High Court with the request to cancel the confirmation and set aside the election on the ground that the same has taken place in a fraudulent or unlawful manner

Fraudulent or unlawful election may be cancelled even after its confirmation.

75. (The following persons—Trs.) may not be elected as trustee:—

Persons disqualified as trustees.

- (a) the insolvent himself ;
- (b) any person who is related to the insolvent by consanguinity or affinity up to the fourth degree inclusive ;
- (c) a minor ;
- (d) a law agent or attorney ;
- (e) any person whose estate has been sequestrated and who has not yet been rehabilitated ;
- (f) any person who is not resident within the jurisdiction of the High Court ;

(g) any person who has any interest conflicting with the general interests of the creditors of the estate;

(h) a former trustee who falls under (in het geval verkeert van) article *ninety*;

(i) any person who is declared incapable of being elected by virtue of the provisions of the next article.

Offences for which person elected as trustee may be disqualified for life or shorter period.

76. The High Court or a Circuit Court may on request of any person interested either before or after the election has been confirmed, declare that a person elected as trustee has forfeited his office, and at the same time, if it deems such necessary, that said person shall be incapable of being elected as trustee under this law during the whole of the rest of his life, or for a period to be fixed by the court; that is to say in the following cases:—

Being party to omission of any creditor from schedule.

(a) If, in order to exercise influence upon his election as trustee he has been guilty of or accessory to, the omission of the name of any creditor from the schedule of the insolvent mentioned in article *twenty-three*;

Promising consideration for vote.

(b) if, in order to obtain the vote of any creditor, he directly or indirectly has given or promised something to the latter;

Promising advantage out of estate.

(c) if he has agreed with any creditor to secure to the latter a certain sum or certain dividend in discharge or reduction of his claim upon condition that such creditor (hij) shall vote for him;

Promising not to open up questionable transactions.

(d) if he has promised to or agreed with any creditor not to institute a full enquiry into any previous transactions between the latter and the insolvent as to the legality of which doubt exists or may be presumed, upon condition that such creditor (hij) shall vote for him;

Party to splitting claims so as to multiply votes.

(e) if he has been guilty of or accessory to effecting an arrangement (schikking) by which claims actually belonging to one or more persons were split among a greater number of persons for the purpose of thereby increasing the number of votes and influencing his election;

Accepting from auctioneer or others share of commission.

(f) if he has accepted from any attorney, auctioneer or other person employed by him on behalf of the estate, any share of his commission or remuneration, or any other benefit.

In all the aforesaid cases, the court shall at the same time order the election of a new trustee.

Grounds upon which trustee may be removed by court.

77. The High Court or a Circuit Court may upon a petition by the Master of the High Court or by any person interested showing cause remove a trustee—

(a) on account of insolvency;

(b) on account of misconduct in his administration in which shall also be deemed to be included (waartoe ook wordt gerekend) the neglect or refusal to satisfy any lawful demand,

made upon him by the Master of the High Court, or by any commissioner appointed by that court ;

(c) on account of absence from the Republic.

78. The court shall in the case aforesaid, as also in the case of a trustee dying or becoming incapacitated or having obtained leave to resign, order the election of a new trustee and at the same time may make such order as it shall deem necessary or advisable for the preservation (bewareing) of the estate until the election of the new trustee shall have been confirmed. Election of new trustee.

During the period between the death or removal of a trustee and the confirmation of the election of a new trustee, the estate shall be placed in the hands of the Master of the High Court unless there shall still remain a trustee of the estate.

79. The newly appointed trustee shall have the same rights and duties in respect of the estate as his predecessor. New trustee entitled to demand accounts from former trustee.

He is entitled to require from the latter an account of any part of his administration as trustee.

All things, however, which the latter has lawfully done in his capacity shall remain of force. Acts lawfully done remain of full force.

80. Every election of a trustee shall be confirmed by the Master of the High Court by issuing a (letter of—Trs.) appointment to the elected trustee, empowering him to administer and liquidate the estate. Master confirms election of trustee and issues letter of administration.

When objection is taken before the High Court to the election under article *seventy-four*, the final confirmation of that election shall be by the said court. When objection, court decides as to confirmation.

81. Every trustee shall forthwith after his election has been confirmed, give notice thereof by an advertisement in the *Staatskoerant*. Trustee to give notice of his election.

The Master of the High Court shall in like manner give notice of every order for the removal of a trustee. Master gives notice of removal of trustee.

82. The trustee may if he wishes to relinquish his office, and likewise as soon as the account and the final plan of distribution of the insolvent estate has been confirmed, ask leave from the High Court to resign his office and to be discharged of the administration of the estate. If no lawful objection is made against this application, and if the court is satisfied that the trustee has complied with the provisions of the law, it shall grant this application and at the same time make the necessary orders for the preservation (bewareing) and administration of the estate until a new trustee shall have been elected. Resignation of trustee with leave of court.

If any objection be made against the application, the court shall summarily decide thereon.

Before resigning, trustee to submit account and report to meeting of creditors.

83. The trustee before filing an application as above, shall render to the creditors a full statement and account of the administration conducted by him, together with (onder overlegging van) a full report of the condition of the estate at a meeting called by him for that purpose and advertised in the *Staatskoerant* at least twenty-eight days previously.

On confirmation of trustee, estate vests in him.

84. As soon as the election of a trustee has been confirmed, the estate shall pass out of the hands of the Master of the High Court or of the provisional trustee, if there be one, to the elected trustee, and remain vested in the latter as long as the sequestration continues and until the account and the final plan of distribution of the estate shall have been confirmed.

Trustee may recover in his own name.

The trustee may make use of the same remedies to recover in his own name, the estate or any part thereof which could have been employed by the insolvent if his estate had not been sequestered, and generally have the same powers over that estate as the insolvent himself possessed before the sequestration.

Trustee may be required to give security.

85. At any meeting of creditors the obligation may be imposed on the trustee by resolution of the majority of the creditors present calculated according to the value of the claims represented by them, to furnish at his own cost sufficient security to the Master of the High Court and to the latter's satisfaction, for the proper administration and the due liquidation of the estate.

If security not found within fourteen days, election void.

Such security shall be given within fourteen days after the passing of such resolution and in default thereof the election of the trustee, if it has not as yet been confirmed, shall be void, and should that election have already been confirmed, the trustee shall be removed as such; without prejudice, however, to the right of such trustee or of any person interested to bring the amount of the security to be given in review before the High Court.

Court may review amount.

Security cancelled when liquidation completed.

86. As soon as the liquidation account and the plan of distribution of the estate have been confirmed, and the receipts of the creditors for their dividends and the unclaimed dividends have been lodged with the Master of the High Court, the security given shall lapse and be cancelled by the Master aforesaid, without affecting the responsibility of the trustee for the administration conducted by him.

Such cancellation does not affect liability of trustee.

Appointment of bank by creditors.

87. Simultaneously with the election of a trustee one or more banks within this Republic shall be appointed by resolution of the majority of the creditors present, calculated according to the value of the claims represented by them, at which the trustee shall open an account in the name of the estate.

Every trustee to open account with bank.

The provisional trustee as also the elected trustee shall, in case no bank has been appointed by the creditors at his election, keep an account in the name of the estate with one or more banks within this Republic at their option.

88. The provisional and the elected trustee shall as soon as they have more than £20 in hand belonging to the estate deposit the same in such bank. All cheques or orders for the payment of such moneys shall express the cause of such payment and the name of the person in whose favour the same are drawn, and shall be signed by all trustees, or by one of them in the name of all of them.

Any sum above £20 to be banked. Cheques to state cause of payment and to be signed by all trustees.

The provisional and the elected trustee shall further in all their transactions in connection with such banks follow the directions which shall be given to them by the creditors at any general meeting.

Trustees to follow directions given by creditors.

89. The trustee who, without just and lawful cause shall retain in his possession any sum belonging to the estate exceeding £20, or shall knowingly permit a co-trustee to do so longer than until the first day upon which it would have been possible for him or his co-trustee after receipt thereof to deposit or cause the same to be deposited in a bank, or who shall use any sum belonging to the estate for his own benefit, or shall knowingly permit a co-trustee to do so shall have to pay to the estate double the amount of such sum so retained or used (*verbruikt*).

Trustee liable in double amount of sums not banked by him, or used by him, or which have been not banked or used by his co-trustee with his knowledge.

This amount may be recovered (*verhaald*) from any claim which said trustee may have against the estate, and further by action in any competent court of law.

90. The trustee who himself becomes insolvent whilst he still owed something to the estate in respect of a sum improperly retained or used by him as above, shall not be discharged by his rehabilitation, as regards the said debt, in respect of his future property.

Rehabilitation of insolvent trustee not to discharge him from liability for estate funds.

He shall, moreover, after such occurrence be for ever incapable of being again elected as trustee.

Such trustee disqualified from future election.

91. The trustee shall keep a book, and therein enter all moneys, properties, books, accounts, and other documents received by him from the insolvent or otherwise on behalf of the estate, and all payments made by him on account of the estate.

Books to be kept by trustee.

That book may be inspected at all reasonable times by every creditor who has proved his claim.

Open to inspection of creditors and Master.

The Master of the High Court may when he deems such necessary, order the trustee in writing to produce that book for inspection, examination (*controle*), verification or otherwise.

92. The trustee may at all times call a general meeting of creditors, and require directions from them concerning the recovery or the sale of any part of the estate or concerning any other matter affecting the administration of the estate.

Trustee may call meetings to obtain directions from creditors.

He is bound to call such a meeting when he is thereto required by creditors whose proved claims together amount to one-fourth of the amount of the proved claims.

Bound to call when required by one-quarter of creditors.

Notice in  
*Staats-  
koerant*.

At least twenty-eight days previous notice shall be given in the *Staatskoerant* of every such meeting as also of the purpose for which it has been called, unless the presiding official shall have allowed the trustee a shorter period for such notice.

Trustee to follow directions of majority of creditors, saving rights of secured creditors.

93. The trustee shall follow the directions of the majority of the creditors present at any meeting. They may not, however, give any directions to the trustee which would tend to injure the rights of any creditor who has a conventional or tacit preference upon any part of the estate. If such direction is nevertheless given, the said creditor may apply to the High Court requesting to set the same aside, which (court—Trs.) shall decide thereon as it shall deem just.

Trustee may take legal advice and employ an attorney.

94. The trustee may take legal advice on every legal question concerning the insolvent estate or the administration thereof, and employ an attorney for the conduct of all suits at law for or against the estate.

Costs to be taxed by Master.

All costs thereby incurred are charged (*komen ten laste*) against the estate. They shall be taxed by the Taxing Master of the High Court, but may be reviewed by the High Court upon complaint of said attorney or of any other person interested.

Attorney improperly advising legal proceedings may be ordered to pay the costs.

95. If it appears to the High Court that the said attorney with the object of thereby benefiting himself and not the estate, has frivolously (*lichtvaardig*) advised the institution of an action, or has conducted a lawsuit in a censurable (*laakbare*) manner, or has incurred any unnecessary or improper expense therein, the court aforesaid may order that all costs of the action or so much thereof as it shall deem fit, shall be borne by said attorney.

Trustee to sell property as soon as possible after notice in *Staatskoerant*.

96. The trustee shall as soon as possible proceed to sell all property belonging to the estate in accordance with the directions given by the creditors, after having given proper notice of such sale in the *Staatskoerant*, and in such other manner as the creditors may deem necessary.

Insolvent's wearing apparel, etc., excluded from sale till creditors decide.

From the sale of the movable property shall be excluded until the creditors shall subsequently determine thereon, the wearing apparel, the bedding, the furniture, and the tools of the insolvent and his family.

Directions by creditors as to sale of immovables.

The sale of immovable property shall take place in the manner and under the conditions as determined upon by the majority of the creditors present at the meeting. The said conditions may, however, be submitted to the approval of the High Court or a Circuit Court, if any party interested requests the same.

Trustee may not be auctioneer.

The trustee shall not be entitled to act as auctioneer at the sale of the property aforesaid.

Provisional allowance to insolvent.

97. The Master of the High Court as also every provisional or elected trustee may provisionally allow to the insolvent out of the assets of the estate such moderate sum as to him shall seem indispensable for the support of that insolvent and his family.

They may also employ the insolvent or some other person in the gathering and preservation of any crops, harvest, or produce for any reasonable time necessary thereto and may also charge the insolvent or some other person with the custody of any immovable property, manufactory, or concern belonging to the estate, until the same shall be sold, disposed of, or wound up, and make a reasonable allowance for same (een en ander) to the said insolvent or other person.

Insolvent may be employed in preservation of estate.

98. The amount of abovementioned allowances granted for support as well as for labour shall at the first meeting of creditors, which shall be held after the second meeting directed by this law, be submitted to the approval of the creditors, who shall then have the power (kunnen) to decide whether such allowance shall be maintained or not, and if so, for what amount and for how long.

Allowance of insolvent to be submitted to creditors.

The trustee who grants such allowance without consent of the creditors shall forthwith give notice thereof to the Master of the High Court stating the amount thereof and the grounds upon which it has been granted by him. Upon application of the Master aforesaid or of any other person interested, the High Court may review an allowance so granted.

Court may review allowance.

99. The trustee may with consent of the majority of the creditors present at a meeting advertised in the *Staatskoerant* at least twenty-eight days previously, and subject to the subsequent approval of the High Court or of a Circuit Court, if such is desired by any person interested, permit the insolvent to retain for his own use the whole or part of his wearing apparel, bedding, furniture, and tools.

Insolvent may be allowed wearing apparel, bedding, furniture, and tools.

100. The trustee collects all moneys due to the estate and for that purpose, by advertisement in the *Staatskoerant*, calls upon all debtors to pay at a time and place to be fixed by him. Every person who after summons as above neglects or refuses to pay his debt to the estate shall, if he is sued on account thereof, and a judgment is given against him, be condemned to pay double the costs of suit for the benefit of the said estate unless he shows sufficient reasons for his neglect or refusal to the court which pronounces the judgment.

Trustee to collect all debts due to estate.

Debtor neglecting or refusing to pay mulcted in double costs.

The advertisement in the *Staatskoerant* shall be deemed to be sufficient notice to all persons who reasonably could be expected to have seen the same.

Advertisement in *Staatskoerant* sufficient notice.

101. The trustee shall, if necessary by process of law, set aside all unlawful payments, alienations and pledges or mortgages (verpandingen) made by the insolvent.

Trustee to take proceedings to set aside undue payments, etc.

If the insolvent shall have entered into any contract for the purchase or the exchange of any fixed property or share in any fixed property, the trustee may elect whether he will perform that contract or not.

Trustee to elect to abandon or to abide by purchase of immovable property.

Vendor may compel trustee to elect.

If the trustee neglects to make an election, the vendor or the person with whom the contract has been made, may apply by motion to the High Court, which may thereupon order the trustee to abandon the contract and deliver the property which was the subject of the same to the said vendor or other person, or make such other order as it shall think expedient.

Vendor suffering damage may sue trustee.

The vendor or other person with whom the contract has been made shall, in any case, have the right to sue the trustee in any competent court for recovery of damages and costs which he has sustained by reason of the non-performance of the contract.

Trustee may compound with debtors, subject to approval of creditors.

102. The trustee may with approval of the creditors consent to any offer of composition made by a debtor of the estate who is himself insolvent, or compound with any debtor of the estate and accept in payment a reasonable part of the debt, or grant a reasonable extension of time or accept a reasonable security for the payment of such debt.

Trustee may submit disputes to arbitration.

He may also submit all disputes which have arisen between him and any other person concerning the estate to the decision of arbitrators elected by him and the said person. The award of arbitrators so elected shall be binding on all creditors.

Notice in *Staatskoerant*.

He shall give notice of all above proceedings at least twenty-eight days previously in the *Staatskoerant*.

If there should be more than one trustee in the estate they shall at the voting as above on an offer of composition together cast only one vote, and the value of the claim of the estate shall only be reckoned once.

Trustee may carry on or abandon actions commenced by, and defend actions against, insolvent.

103. The trustee is competent to proceed with or stay the lawsuits already commenced by the insolvent for recovery of any debt to the estate, as also to commence new lawsuits in any competent court for that purpose, and to defend all actions which were already pending against the insolvent or are instituted against him the trustee in respect of the estate.

Pending actions do not lapse on death or removal of trustee.

104. The pending actions relating to the estate do not lapse by the death or the removal of a trustee.

The court in which the same are pending may, upon receiving notice of such death or removal, allow the name of the remaining or of the new trustee to be substituted and the action to be continued by him as if he were the original plaintiff (insteller) or defendant in the action.

Trustee entitled to reasonable remuneration.

105. Every trustee whether provisional or elected, is entitled to a reasonable remuneration for his services, to be fixed by the Master of the High Court.

The High Court may, upon petition of a trustee himself or of any creditor or other interested person review the decision given thereanent by the Master aforesaid.

## CHAPTER V.

## COMPOSITION.

106. At the third meeting of creditors or at any subsequent meeting duly advertised in the *Staatskoerant*, stating the purpose for which it has been called, the insolvent may make an offer of composition or security for composition.

Offer of composition at or after third meeting.

¶ If three-fourths of the creditors present whose joint claims amount to three-fourths of the whole amount of the claims represented at that meeting, agree to such offer, the trustee shall immediately convene another meeting for the purpose of finally deciding thereon.

That meeting shall be notified in the *Staatskoerant* at least forty-two days previously, stating the time, the place, and the purpose thereof.

107. If at that meeting three-fourths of the creditors present whose joint claims amount to three-fourths of the whole amount of the claims represented at that meeting, accept the offer, the Master of the High Court shall give notice thereof to the High Court.

If offer accepted by three-fourths of creditors present, Master notifies acceptance to court.

108. If the number of the creditors present at the meeting who have as above accepted the offer of composition or security for composition, do not amount to two-thirds of the whole number of all creditors, and their joint claims do not amount to two-thirds of the whole amount of all claims, the Master of the High Court shall at the same time communicate this circumstance to the High Court.

If accepting creditors are less than two-thirds, Master reports to court.

109. A creditor who has a preferent claim cannot be prejudiced by the composition unless he has expressly renounced his preference.

Preferent creditors not affected by composition.

110. All preferences, gifts, securities, or payments granted, made, promised or offered by the insolvent to or on behalf of any creditor, and all secret agreements or transactions entered into by him with any creditor to induce the latter to accept any offer of composition or of security for composition, are void.

Payments, etc., made to secure acceptance void.

The creditor who accepts any money or other thing or promise of same (*daartoe*) as a remuneration for or inducement (*aanmoeding*) to accept any such offer shall forfeit—

- (a) a sum equal to the whole of the debt which he originally had proved against the estate;
- (b) the amount of all moneys or other things which he has received as above as remuneration or inducement;
- (c) the amount which has been paid or secured to him by virtue of the composition.

Penalties.

Moneys and penalties may be recovered by any creditor. Notice to other creditors.

Notice may be given in general terms.

Administrative costs first charge on estate.

Creditors not liable for costs of action not authorised by them.

Costs of realization of mortgaged property payable out of its proceeds.

Trustee to file account with Master within six months, unless extension granted.

111. The action for recovery of above moneys or other things may be instituted by any person who was a creditor at the time of the acceptance of the composition, on behalf of himself and all other persons, who were creditors at the aforesaid time and who within twenty-eight days after he had given notice in the *Staatskoerant* of his intention to institute the action, join with him and bind themselves to bear with him the costs of the action.

112. The notice aforesaid need not mention the name of the person against whom such action shall be taken but shall simply set out that legal proceedings will be commenced in accordance with the provisions of article *one hundred and ten* in a certain matter, the particulars of which may be ascertained from the person who subscribed the notice.

## CHAPTER VI.

### LIQUIDATION OF THE ESTATE.

113. All costs incurred under the sequestration shall before any other debt be paid out of the free residue of the estate.

If this residue is not sufficient for that purpose (hiertoe) all creditors who have proved claims against the estate shall be liable for the deficiency (ontbrekende gedeelte) in proportion to their claims.

The creditors, however, are not liable for the claims of persons employed by the trustee in any suit relating to the estate, except in so far as they have thereto instructed the trustee.

Such persons must recover their claims from the estate or from the trustee.

The costs incurred in the realization of any portion of the estate on which a creditor has any special mortgage as security for his claim shall be paid out of the proceeds of such property, and in so far as such is not sufficient the said creditor shall be liable.

Other costs incurred in the sequestration shall in the latter case not be recoverable out of such property.

114. The trustee shall as soon as possible and not later than six months after confirmation of his election, unless the Master of the High Court shall have extended this period upon his request stating the grounds thereof, of which he shall give notice in the *Staatskoerant* at least fourteen days previously, lodge with the Master of the High Court:—

- (1) An exact account of the estate framed by him, stating—
  - (a) the proceeds of all sales ;
  - (b) the amount of all debts collected ;
  - (c) a statement of all debts still outstanding ;
  - (d) an inventory of all property and effects still unsold ;
  - (e) all that is owing by the estate.

(2) A plan of distribution of the assets of the estate framed by him, stating—

- (a) all the preferent creditors in the order of their legal preference ;
- (b) the concurrent creditors and the balance which remains for division among them.

115. If the insolvent resides outside the district of Pretoria, the trustee shall before lodging the account and the plan aforesaid with the Master of the High Court, transmit the same to the landdrost of the district or the special landdrost on the public diggings where the estate is situated, at whose office the same shall remain for the inspection of the creditors for at least seven days.

When insolvent resides outside Pretoria, account to be filed with landdrost also.

Every landdrost and every special landdrost shall cause to be affixed in some public place in or near his office a list of all accounts and plans so lodged with him on which shall at the same time be stated the date on which the same shall be transmitted to the Master aforesaid.

116. The account and the plan aforesaid shall lie at the office of the Master of the High Court for the inspection of the creditors for a reasonable time to be fixed by him, not being less, however, than fourteen days from the date on which the trustee shall have given notice of same (een en ander) in the *Staatskoerant*.

Account and plan of distribution open for inspection.

117. The insolvent as also any creditor or other interested person may within the period aforesaid lodge his objections with a statement of reasons in writing with the said Master of the High Court against the account and plan aforesaid.

Aggrieved person may object to account.

The High Court may also allow that such objections be still preferred at any time before the final confirmation of the said account and plan, upon terms to be fixed by it, if sufficient cause be shown therefor.

118. He who lodges objections against the account and the plan as above shall at the same time call upon the trustee, as also upon the party whose interest may be injured thereby, to appear before the High Court and to show cause why such plan shall not be altered or amended.

Interested party may bring objection before court.

The hearing (behandeling) by the High Court of those objections must take place within fourteen days after the lodging, in default whereof they shall be deemed to have lapsed.

The court shall after having heard the parties make such order as it shall deem reasonable.

When, however, an alteration or amendment in the plan shall be ordered, whereby the interest of any party who has not appeared in the court shall be affected, the plan shall again lie for inspection as above, after notice as above.

Amended account to be open for inspection.

119. If no objections shall have been lodged against the account and the plan aforesaid, the Master of the High Court shall confirm the same.

Master confirms account if no objection lodged.

If objection lodged, court decides.

If objections have been lodged, the confirmation shall be made by the High Court after it has decided upon those objections.

Confirmation has effect of final sentence.

The confirmation whether it is made by the High Court, or by the Master of the High Court, has the effect of a final sentence, except as regards such creditors as shall afterwards be allowed by the court to still prove their claims and to be ranked in the estate at any time before the final distribution thereof.

Distribution after confirmation of account.

120. After the confirmation of the account and plan aforesaid, the trustee shall distribute the estate according to the said plan.

As long as the trustee is in office every creditor may by motion to the High Court or a Circuit Court claim payment of the dividend accruing to him.

Trustee may frame provisional distribution account.

121. If it shall be impracticable from the nature of the estate or from other causes, to let the distribution of the whole estate take place according to the confirmed plan, the trustee may as soon as possible and in no case later than six months after the confirmation of that plan, unless further extension has been granted to him as above, lodge with the Master of the High Court a plan of provisional distribution framed by him containing a statement of all matters as prescribed in article *one hundred and fourteen* in respect of the plan of distribution, in so far as the condition of the estate shall permit such at that moment.

He shall further act in accordance with the same rules in respect of such plan of provisional distribution, and after the confirmation of the same, shall cause the distribution to take place in accordance with the same rules as are hereinabove prescribed in regard to the plan of distribution.

When residue left, second account to be framed, and so on.

122. When after such provisional distribution something still remains for distribution, the trustee shall as soon as possible and in no case later than six months after the expiration of the six months mentioned in article *one hundred and twenty-one*, unless further extension has been granted to him as above, file and give effect to a second, and so on every six months a new plan of distribution until the whole estate shall have been finally distributed.

Account to be filed with Master.

123. The trustee shall together with the liquidation account and plan of distribution of the estate, send in to the Master of the High Court a duplicate or a copy of both; in default whereof he shall be deemed to have filed no account and plan of distribution at all.

Examination and authentication of account by Master.

124. The Master of the High Court shall endorse upon each duplicate sent in as above, the date upon which the account or plan has been confirmed, and examine or cause to be examined and authenticate by his signature every copy sent in as above.

Duplicate account to be sent to landdrost of district where insolvent resides.

125. He transmits further as soon as possible after the end of each month all duplicates and copies received by him to the landdrosts of the districts or the special landdrosts on the public diggings where the estates were situated.

126. The landdrosts and special landdrosts shall register and file (bewaren) all those duplicates or copies at their office, where any person may daily inspect and take copies of the same except on Sundays and holidays.

Such duplicate accounts to be open for inspection.

127. A copy of an original account or plan of distribution or of a duplicate thereof, which is signed and certified by the landdrost or special landdrost as a true copy and authenticated by the Master of the High Court or by the landdrost or special landdrost, shall be received in evidence by any court or by any person who by law or by consent of parties, is declared competent to take (ontvangen) evidence.

Certified copies of accounts receivable in evidence.

128. As often as a dividend (uitkeering) is payable the trustee shall give notice thereof in writing to all creditors who have proved claims, as also by advertisement in the *Staatskoerant* by calling upon the creditors entitled thereto to come and receive the same.

Notice of dividends in *Gazette*.

If any dividend has not been claimed for six months after such notice, the trustee, if he is still in office, and after his discharge the Master of the High Court shall deposit the amount thereof in the Orphan Fund† for the benefit of the person entitled thereto. Such deposit shall be subject to the provisions of Law No. 12 of 1870 \* (Orphan Chamber Law).

Unclaimed dividends to be paid into Orphan Fund.

When the trustee neglects to cause such deposit to be made through the hands of (door handen van) the Master of the High Court, the said Master may summon him before the High Court or a Circuit Court in respect thereof.

The court aforesaid decides summarily thereupon and may condemn the trustee, in addition to (the making of—Trs.) the said deposit, to pay for the benefit of the Treasury a sum to be fixed by the court not exceeding the amount of the dividend unduly detained.

129. The Master of the High Court may at all times after the confirmation of the liquidation account and the plan of distribution of the estate, demand from the trustee an account as to the dividends paid. Every neglect of or every refusal by the trustee to prove the payment of any dividend by means of receipts or other sufficient vouchers, shall be considered as *prima facie* proof that the same is still unclaimed.

Master may call on trustee to furnish proof of payment of dividends.

130. The court aforesaid may, if the trustee does not comply with an order or decision of the court aforesaid as provided in articles *one hundred and twenty* and *one hundred and twenty-nine* direct that the sum, to the payment of which he has been thereby condemned, shall be recovered by attachment and sale of his property, with or without his committal to prison, until he shall have complied with such order or decision.

Attachment issued against disobedient trustee.

† See Transvaal Proclamation No. 28, 1902, section *one hundred* et.

\* Repealed.

Residue (if any) of estate payable to insolvent.

131. All that remains in the estate after payment of all claims shall be paid to the insolvent or his lawful successors in title or assigns (*rechtverkrijgenden*).

The property in all claims and other assets belonging to the estate which are then still remaining outstanding shall at the same time be restored to the insolvent.

## CHAPTER VII.

### DISCHARGE OF THE SEQUESTRATION AND REHABILITATION OF THE INSOLVENT.

Rehabilitation after composition or after six months from final distribution.

132. The insolvent may, when an offer of composition made by him to his creditors has been accepted immediately after such acceptance, and otherwise not earlier than six months after the final distribution of his estate, make application to the High Court to be rehabilitated.

In each case notice of such application shall have to be given at least six weeks previously, in writing, to the Master of the High Court and to the trustee as also by an advertisement in the *Staatskoerant*, or in such other manner as the court shall direct.

Insolvent to give security before applying for his rehabilitation.

133. Before he may file an application as above, the insolvent shall give sufficient security to the amount of twenty-five pounds, to the Registrar of the High Court, for the payment of the costs of any person who may oppose the rehabilitation, and to whom the court may award his claim for costs.

Insolvent to make oath of full and fair surrender, etc.

134. With the application shall be handed in a sworn declaration in writing by the insolvent that he has made a full and honest surrender of his estate, and that he has given or promised no preference or security or payment and has entered into no secret or fraudulent agreement or transaction with the object of persuading his trustee or any creditor not to oppose his rehabilitation.

Trustee or creditors may oppose granting of rehabilitation.

135. Upon the day fixed for the hearing of the application the trustee or any creditor or other person interested may appear in person or by counsel and oppose the granting of the rehabilitation.

Court has discretion to grant or refuse rehabilitation.

The court may, whether any objection as above has been made or not, grant or refuse or postpone the rehabilitation, or attach thereto such conditions as it shall deem reasonable.

The Registrar of the High Court shall forthwith give notice to the Master of that Court of every rehabilitation granted.

Fraudulent insolvent not entitled to rehabilitation.

136. The insolvent who has committed (*zich heeft schuldig gemaakt aan*) fraudulent insolvency or any fraudulent transaction to the detriment of his creditors or any transaction as mentioned in article *one hundred and forty-one*, shall not be rehabilitated.

Court to protect rights of creditors who may not have been proved.

137. The court shall grant no rehabilitation until it has satisfied itself that no injury or injustice will be done thereby to any person who has been allowed by the court to make any claim against the estate and has not yet proved his claim at the time of

the application, and until (alvorens) it has investigated either by putting the insolvent to his oath or otherwise, whether there are no other creditors who, by reason of absence from the Republic or for other reasons, have not yet proved their lawful claims against the estate.

When it appears to the court that there are still such creditors, it shall not grant the rehabilitation before the Master of the High Court has certified to the said court that all amounts to which such creditors would be entitled under an accepted offer of composition, or according to the plan of distribution, if they had proved their claims, have been paid to him, or have been deposited with him or with some other person with his consent and for the benefit of such creditors.

138. When a creditor on whose behalf as above any sum of money or other thing is deposited (bewaard) or secured, shall not prove his right thereto within a reasonable time to be fixed by the court, the court shall, upon application of any person interested, order that such sum of money or such thing shall, after deduction of the costs on behalf of the person who has incurred the same, be divided proportionately among the remaining creditors.

139. The rehabilitation of the insolvent has in law the effect that the sequestration of the estate is discharged and that the insolvent is again reinstated in the personal legal status which he had before the sequestration and is discharged from all his debts existing at the moment of the granting of the order of sequestration, save however such claims as the creditors shall have against him by virtue of an offer of composition accepted by them and which shall not as yet have been satisfied.

140. No creditor shall by reason of the rehabilitation be deprived of his right to claim from any person bound to him as surety for the insolvent, the balance of the claim in respect whereof the suretyship was entered into.

141. All preferences, gifts, securities or payments granted, made, promised, or offered by the insolvent to or for the benefit of his trustee or any creditor and all secret agreements or transactions entered into by him with his trustee or any creditor to induce them not to oppose his rehabilitation, are void.

The trustee or creditor who accepts any offer made as above shall forfeit for the benefit of the joint creditors (the creditor who has accepted the offer always excepted) a sum of money equal to double the amount or double the value of what he has so received from the insolvent.

142. As long as the insolvent is not rehabilitated as above, the sequestration remains in force even after the final distribution of his estate and the discharge of the trustee.

Deposit to cover interest of unproved creditors.

Distribution within reasonable time of any money so deposited.

Rehabilitation discharges insolvent from debts, and reinstates him in his personal legal status.

Rehabilitation of insolvent does not discharge his surety.

All transactions, etc., entered into to induce trustee or creditor not to oppose rehabilitation void.

Trustee or creditor accepting forfeits for benefit of other creditors.

Sequestration continues until rehabilitation.

Until rehabilitation after acquired property liable to attachment.

143. If it appears during that time that there still are assets of the estate which were not known at the time of the distribution of the estate, or that the insolvent has acquired fresh assets by inheritance or otherwise, or that the profits made by the insolvent in the business carried on by him by virtue of article *twenty-eight*, amount to more than is strictly necessary for the maintenance of himself and his family, every creditor who has proved his claim upon the estate may apply to the High Court with a request to order the distribution of same (een en ander) among the creditors who have proved their claims upon the estate.

When £50 at least is available for distribution, meeting of creditors to be called to elect trustee.

144. The court may, if it finds that after deduction of the costs, at least £50 is available for distribution (te verdeelen zijn) order the Master of the High Court to call a meeting of creditors for the election, according to the provisions of this law, of a trustee who shall be charged with the distribution.

All provisions of this Act apply to sub-trustee.

145. All the provisions of this law relating to the trustee and to the distribution of the estate shall, *mutatis mutandis* apply to any trustee and any distribution as mentioned in article *one hundred and forty-four*.

## CHAPTER VIII.

### FRAUDULENT AND CULPABLE INSOLVENCY.

What constitutes fraudulent insolvency. Punishment.

146. The insolvent shall be deemed to be guilty of the crime of fraudulent insolvency and be punished for the same (deswege) by imprisonment not exceeding seven years, with or without hard labour—

Alienation, etc., with intent to defraud.

(a) if he, either before or after the granting of the order of sequestration, has alienated, mortgaged, pledged, embezzled, concealed or removed anything belonging to the estate to the value of £10 or more with intent to prejudice (ter opzettelijke verkorting) the rights of his creditors ;

Concealing, etc., books, vouchers, etc.

(b) if he has concealed, removed, destroyed or mutilated any office books, accounts, receipts or other documents relating to the estate, with the intent to injure his creditors ;

Fraudulently contracting debts.

(c) if he has contracted any debt in a fraudulent manner ;

Wilfully lodging false statements, etc.

(d) if he shall at the second meeting or at the adjourned second meeting of creditors wilfully hand in an inventory containing any false statement about his estate or any part thereof, or as regards anything (hetgeen) due to or by him ;

Producing false books, etc.

(e) if he, with the intent to injure his creditors, shall produce any office books, accounts, receipts or other documents which are false or on which any erasure or alteration has been effected by him or by his order, or with his foreknowledge ;

- (f) if he has connived at (oogluikend toegelaten heeft) or has at all events not prevented by a timely communication to the trustee, any person from proving a false claim against the estate ; Conniving at proof of false debt.
- (g) if he at any examination by the court or by the presiding official or by any creditor at a meeting of creditors makes a false answer with the intent to injure his creditors to any lawful question put to him ; Wilfully making false answers.
- (h) if he, having been summoned in accordance with article *one hundred and fifty-nine*, leaves the Republic, or otherwise absents or conceals himself with the intent to avoid the examination referred to under that article, or to prevent a writ of arrest as mentioned in article *one hundred and sixty*, being executed against him. Absenting, etc., himself after being summoned.
147. The insolvent shall be deemed to be guilty of the crime of culpable insolvency and be punished for same (deswege) by imprisonment not exceeding six months, with or without hard labour— What constitutes culpable insolvency. Punishment.
- (a) if he neglects to appear at the first, second or third meeting, or remains away from any adjourned meeting, without leave from the presiding official, or does not appear at any other meeting if he has been duly required thereto ; Failing to attend meeting of creditors.
- (b) if he has kept no adequate and proper books or accounts containing all such entries which relate to and show the nature of his dealings, as (regard being had to his particular trade or calling) might reasonably be expected from or required of him ; Not keeping proper books or accounts.
- (c) if he at any meeting of creditors, being thereto required by the presiding official, cannot give an account of what has become of any money, security or other property (zaak) of which it is proved that they were in his possession so recently before the sequestration that it was his duty to do so ; Not accounting for money, etc., recently in his possession.
- (d) if he is not able on a written request thereto made by the trustee to give a true and sufficient explanation of the cause of his insolvency Not explaining cause of insolvency.
- (e) if he has given any undue preference to one of his creditors ; Giving undue preference.
- (f) if he has contracted any debt or debts to the amount of £50 without reasonable or probable prospect of being able to discharge the same ; Contracting debt of £50 without expectation of being able to pay same.
- (g) if he has given, promised or offered to any creditor any gift, payment, security or other unlawful benefit in order to obtain his consent or assistance to any offer of composition, or not to oppose his rehabilitation. Making or promising any gift, etc., to obtain composition or to prevent opposition to rehabilitation.

Trustee or creditor has right of prosecuting for culpable insolvency.

148. The trustee as also every creditor shall have the same right of prosecution for a crime of culpable insolvency which has been committed as that given by the law to every private person with regard to any offence committed against his person or property.

Provided no creditor can prosecute until trustee declines.

The creditor shall however only be entitled to exercise such right if he has obtained and submitted a certificate from the trustee in which the latter refuses to institute such prosecution.

Fraudulent and culpable insolvency to be tried by jury.

149. *Repealed by Ordinance 5, 1905, section one.*

## CHAPTER IX.

### MISCELLANEOUS PROVISIONS.

Penalty for removing, etc., property attached under sequestration.

150. He who alienates, removes, conceals, embezzles or receives any property belonging to an insolvent estate and which has been attached by virtue of an order of sequestration, knowing that such attachment has been made, and with the intent to defeat such attachment, shall be punished by imprisonment not exceeding seven years with or without hard labour.

Penalty for accepting fraudulent alienations, etc.

151. He who accepts from an insolvent any alienation, mortgage or pledge, knowing that the same has been made or constituted by that insolvent for the purpose of fraudulently prejudicing the rights of his creditors, shall be punished by imprisonment not exceeding seven years with or without hard labour.

Search warrant for property of insolvent suspected to be concealed.

152. When it shall appear from sworn declarations to the satisfaction of a judge of the high court landdrost or justice of the peace that there is reason to believe or to suspect that property belonging to an insolvent estate, is concealed in a house or any other place not belonging to the insolvent, such judge, landdrost or justice of the peace may upon application of the Master of the High Court or of the trustee grant a warrant to institute a search for and to take possession of that property. Such warrant shall be executed in the same manner as a search warrant for stolen and concealed property.

All property of the insolvent estate which is so discovered shall be delivered to the Master of the High Court as long as there is no trustee, and otherwise to the trustee, or to any person appointed by the Master or trustee aforesaid to receive the same.

Creditor obtaining undue preference by collusion, not allowed to prove on estate.

153. Every person, whether creditor or not, who is obliged by virtue of articles *thirty-five, thirty-seven and thirty-eight* to restore the amount of an undue preference granted to him, shall, when such preference was obtained by him in consequence of a fraudulent arrangement (schikking), mutual agreement or common consent between him and the insolvent, not be entitled to prove the amount so restored by him as a claim upon the estate.

In action for undue preference, court may declare forfeiture.

154. The trustee who institutes an action against any person for the restoration of the amount of an undue preference may claim in the same action that such person be declared to have

forfeited for the benefit of the estate, the amount of the undue preference obtained by him in consequence of a fraudulent arrangement (schikking) mutual agreement or common consent between him and the insolvent.

If no action is instituted as above, but the claim which such person wishes to prove for the amount of what has been restored by him, is disputed, then such claim (daarover) shall be determined in accordance with the provisions of this law in respect of the proof of claims.

155. A creditor who has obtained an undue preference, but under circumstances which do not carry with them any forfeiture as mentioned in the preceding article shall, if that preference was obtained in respect of a bill of exchange or promissory note with recourse on other persons, payable by the insolvent, and which was in the possession of the said creditor, or in respect of any debt of the insolvent for which said creditor had any security which the latter has surrendered in good faith or refrained from claiming in law because the act (handeling) of the insolvent constituted an undue preference, not be obliged to restore to the trustee the value of such preference unless the latter will indemnify him for the loss which he would sustain if he were unconditionally condemned to restore that value.

Creditor acting bona fide who has lost recourse through receiving undue preference entitled to indemnity from trustee.

156. If any person in good faith purchases or otherwise acquires for lawful consideration bills of exchange, promissory notes or other money securities or any property or effects from any person to whom they have been alienated by the insolvent under circumstances in which such would be void in accordance with this law, the rights to the said property (zaken) of the person who has so bought or acquired, shall not lapse nor can it be attacked (aangetast). The person however to whom the alienation as above was made shall be obliged to pay the true value of the property (zaken) so sold or made over by him to a third party to the trustee for the benefit of the estate.

Third party bona fide obtaining estate property improperly alienated protected.

But person having received such improper alienation to pay value to estate.

157. When in an action for setting aside an undue preference as mentioned in articles *thirty-five*, *thirty-six*, *thirty-seven*, and *thirty-eight*, it is proved that the alienation, payment, mortgage or pledge which is the subject matter of the action (waarover het geding loopt), was made or constituted within six months before the sequestration of the estate and while the liabilities of the insolvent fairly calculated exceeded his assets fairly valued, it shall be deemed that the insolvent could have expected the sequestration of his estate at that time, unless the defendant in such action proves the contrary.

Alienation within six months of insolvency, when presumed to be in contemplation of sequestration.

For such proof to the contrary the evidence of the insolvent alone is not sufficient.

Persons legally invested with estates liable to same provisions as to undue preferences.

158. All provisions of this law relating to undue preferences made by the insolvent are equally of force where such preferences were made by the person who was before the sequestration lawfully charged with the administration of any estate.

Where undue preferences as above were made by any person who, before the sequestration was lawfully charged with the administration of any estate, the trustee may prosecute that person as well as the person to whom the preference was made the one after the other but not concurrently for the return of the amount or the value of that preference; provided, however, that he shall never be able to recover more than once the amount or the value together with the costs incurred by him.

Insolvent a competent witness.

159. In all lawsuits mentioned in article *one hundred and three*, as also in every suit carried on between any parties as to the legality of the claim of a person who alleges to be a creditor of the estate or in respect of the right of a person to preference upon any part of the estate, the insolvent shall be competent to give evidence either for or against the trustee.

Court may direct insolvent to be summoned for examination.

160. The High Court or a Circuit Court may, when and as often as it deems such expedient, upon application of the trustee, summon the insolvent to appear before it or before a commissioner of the High Court in order to be examined under oath upon matters mentioned in article *fifty-five*.

Examination to be reduced to writing and signed.

The court or the commissioner aforesaid shall cause such examination to be reduced to writing, to be signed by the insolvent, and add the same to the documents relating to the estate.

Insolvent disobeying summons may be arrested and imprisoned.

161. If the insolvent being duly summoned as above, does not appear at the time and the place described in the summons, without having proved any lawful impediment (verhinderend) to the satisfaction of the court or the commissioner aforesaid, the court or the commissioner may grant a warrant authorising every officer of the law or other person to apprehend the insolvent and bring him before the court or the commissioner, or to lodge him in any prison in order to be there detained until the time which the court or the commissioner on application of the trustee shall fix anew for the examination.

In the latter case the gaoler of such prison shall be bound to bring the said insolvent before the court or the commissioner aforesaid.

Insolvent failing to lodge accounts or to answer questions, etc., may be committed to prison without bail till he comply.

162. If the insolvent at the second meeting or at the adjourned second meeting of creditors, being thereto required, refuses to lodge a true inventory, as provided by article *fifty-four*, or to surrender the books, accounts, vouchers, and other documents mentioned in that article, or at any meeting of creditors, or at his examination before the court or the commissioner aforesaid, refuses to take the oath or to answer any lawful questions put to him by the court or the commissioner, the presiding official or

any creditor relating to the matters mentioned in article *fifty-five*, or without lawful cause (*verhinderend*) refuses to subscribe to his examination as reduced into writing, the court or the commissioner or the presiding official may, by warrant in which shall be stated the questions which the insolvent may ultimately (*eventueel*) have refused to answer, cause such insolvent to be taken to such prison as it or he shall deem necessary in order to be there detained without being admitted to any bail until he shall have withdrawn his refusal aforesaid.

163. The High Court or a Circuit Court may, after the sequestration of any estate, upon application of the trustee, summon to appear before it or before a commissioner of the High Court, the wife of the insolvent or any person known or suspected to have in possession anything of the estate, or to be owing something to the insolvent, or whom the court shall have reason to presume able to give information concerning the person, the calling, the business, or the estate of the insolvent, or to give any information which may be of importance for the purposes of a thorough knowledge of the estate, and at the same time order her or him to produce all books, accounts, vouchers and other documents which are in their possession and which appear to the court to be necessary to establish or support any facts relating to the estate.

Wife of insolvent or third person detaining estate property or capable of giving information may be summoned for examination.

The court or the commissioner may examine such person upon oath and shall cause that examination to be reduced to writing and to be signed by the said person, and add the same to the documents relating to the estate.

164. If such person, upon being lawfully summoned as above, does not appear at the time and the place described in the summons, without having proved any lawful cause (*verhinderend*) to the satisfaction of the court or of the commissioner aforesaid, the court or the commissioner may grant a warrant, authorising every officer of the law or other person to apprehend the said person and to bring him before the court or the commissioner or lodge him in any prison in order to be detained there until the time which the court or the commissioner shall on the application of the trustee fix anew for the examination.

Such person making default may be arrested.

In this latter case the gaoler of such prison shall be obliged to bring such person before the court or the commissioner aforesaid.

165. If such person summoned or brought before the court or the commissioner as above refuses to take the oath or to answer any lawful question put to him by the court or the commissioner relating to the subject matter of the examination, or refuses to subscribe to his examination as reduced into writing without lawful cause (*verhinderend*) or, being thereunto required, does not produce all books, accounts, vouchers, and other documents to the production of which there is no lawful impediment on his

Such person refusing to answer, etc., may be committed to prison without bail till he comply.

part the court or the commissioner may by warrant in which shall be stated the questions which he may ultimately (eventueel) have refused to answer cause him to be taken to such prison as it or he shall deem necessary in order to be there detained without being admitted to any bail until he shall have withdrawn his refusal aforesaid.

Insolvent and other witnesses to have necessary expenses tendered.

166. The trustee shall send to every insolvent or other person who is summoned to appear before the High Court, a Circuit Court or a commissioner as above, an allowance (vergoeding) at the rate as is fixed by law for witnesses in a civil suit.

A similar allowance (vergoeding) shall be granted to the insolvent for his appearance at any meeting of creditors, except the first, second, and third, or the continuation thereof after adjournment to which he shall have been summoned by the presiding official.

Person making false answer guilty of perjury.

167. Every insolvent or other person, who on being examined as above, wilfully makes a false answer to any lawful question put to him by the court, the commissioner, the presiding official, or any creditor, shall be deemed to be guilty of the crime of perjury.

Person committed to prison may be discharged by court.

168. The insolvent or other person who has been lodged in prison in consequence of a refusal as mentioned in articles *one hundred and sixty, one hundred and sixty-one, one hundred and sixty-four* or *one hundred and sixty-five*, may apply to the High Court or a Circuit Court with the request to be discharged therefrom. The court aforesaid may order his discharge either on the ground of an illegality or informality in the warrant for arrest or if it shall appear on investigation that the said insolvent or other person had a lawful reason for his refusal.

Commissioner or presiding officer committing to prison have same protection as a justice of the peace.

169. The commissioner or presiding official aforesaid against whom any action is instituted in respect of the imprisonment of any insolvent or other person, shall, with regard to such action and the proceedings therein, have the same rights and obligations as are by law granted to and imposed on justices of the peace against whom an action is instituted in respect of any act done by them in the execution of their office.

If the action is instituted in respect of imprisonment for refusal to answer questions put, the court shall consider the whole examination of which such question formed a part.

After confirmation of account and before rehabilitation, insolvent may be summoned for civil imprisonment.

170. At any time after the confirmation of the plan of distribution of the estate or after the distribution of the estate has been ordered under the provisions of article *forty-six*, and before the insolvent shall have been rehabilitated, the Master of the High Court, the trustee, or any creditor, may apply by motion to the High Court or a Circuit Court for an order placing the insolvent in civil imprisonment, provided the insolvent be summoned.

The court may, after it has been proved to its satisfaction that the assets of the estate are not sufficient to pay the debts proved or provable against the same, conditionally or unconditionally grant or dismiss the application. If the application has been made by one or more creditors and the court shall suspend its decision upon condition that the insolvent shall pay a sum of money, such payment shall be made to the trustee, or if there be no trustee to the Master of the High Court for the benefit of said creditor or creditors and of such other creditors as shall before the distribution claim to be admitted to a share thereof.

171. At any time after the confirmation of the plan of distribution of the estate, or after the distribution of the estate has been ordered under the provisions of article *forty-seven*, and before the insolvent shall have been rehabilitated, the latter may apply by motion to the High Court or a Circuit Court for an order declaring that he shall not be liable to proceedings for civil imprisonment as above mentioned.

Insolvent may apply for a protection order on giving six weeks notice in *Staatskoerant*.

At least six weeks' notice of the filing of such motion shall be previously given in the *Staatskoerant*.

172. Any creditor whose claim has not been fully satisfied may object to an application as above.

Creditors entitled to be heard against protection order.

The court may conditionally or unconditionally grant or dismiss the application.

The order by which the application is granted shall have the same effect of protecting the insolvent against civil imprisonment as his rehabilitation would have had. Every creditor, however, shall retain his right to prosecute his claim against all present and future assets of the estate in accordance with the provisions of this law.

The court may, if in consequence of the same, it be proved that such order was obtained in a fraudulent or improper manner, recall the same.

Order fraudulently obtained may be recalled. Court may frame rules.

173. The High Court may as often as it shall deem such expedient, make such rules, orders or regulations for carrying out this law as well as in respect of the manner of proceeding under this law as it shall consider advisable.

174. In all cases in which according to this law, the aid or the decision of the High Court is required, such may be granted or given by a judge in chambers.

Judge in chambers may give rules under this law, subject to appeal to full court. Master to publish every three months lists of unrehabilitated insolvents.

From every decision given by the judge aforesaid there shall be an appeal to the full High Court.

175. The Master of the High Court shall at the cost of the Government publish every three months in the *Staatskoerant*—  
(a) an alphabetical list stating the name and place of residence of every unrehabilitated insolvent, in whose estate the account and the plan of distribution of the estate has not yet been confirmed, together with the date on which the order of sequestration of the estate was granted ;

(b) an alphabetical list stating the name and the place of residence of every unrehabilitated insolvent in whose estate the account and plan of distribution of the estate shall have been confirmed, together with the date of that confirmation.

Master to enter records and have custody of all proceedings.

176. The Master of the High Court shall keep record of and keep in his custody all documents relating to every registered estate.

Certified extracts to be received in evidence.

The insolvent or any creditor who has proved his claim may at all reasonable times have inspection and take copies or extracts of the same (een en ander). Extracts of the same (een en ander) signed by the Master aforesaid shall be accepted as proof in all courts of law.

Landdrosts and justices of the peace to aid in carrying out the law.

177. The landdrosts in their respective districts the special landdrosts on the public diggings and the resident justices of the peace shall assist in the carrying out (handhaven) of this Law, and for that purpose shall do whatever may be required of them by any rule or order of the High Court by virtue of this Law.

Sheriffs, deputy sheriffs, and messengers to carry out their duties and to receive remuneration.

178. The high sheriff and the deputy sheriffs as also the messengers of the landdrosts' courts, being thereunto required by the Master of the High Court, shall perform all such duties within the districts in which they have been appointed as may be required of them by this Law.

They shall receive remuneration to be fixed by the High Court for the services rendered by them out of the assets of the sequestered estate.

This law to apply as far as possible to estates already sequestered.

179. This Law shall apply to every estate which was placed under sequestration before its coming into operation in so far as such shall be possible in the condition in which such estate was at the time of the coming into operation.

The rights, however, of any person to any property which had been lawfully attached in consequence of an action instituted by him at the time of the coming into operation as also all suits or actions-at-law pending at the time of the coming into operation, shall be decided in accordance with the provisions of Law No. 21 of 1880.

The crimes made punishable by Law No. 21 of 1880, and committed before the coming into operation of this Law shall also be prosecuted and punished in accordance with the provisions of the said Law No. 21 of 1880.

Meaning of word "estate."

180. The word "estate" shall, within the meaning of this Law, comprise all present and future property, whether movable or immovable, personal or real, and all rights to such property, wherever they may be, which belong to or are owing to the insolvent at the moment when the order of sequestration was granted, or which shall subsequently at any time before rehabilitation be acquired by or become owing to him (with exception of the property mentioned in articles *twenty-eight* and *thirty-two*).

Repeal.

181. All provisions in conflict with this Law are hereby repealed.

182. This Law comes into operation on 1st January, 1896.

## LAW No. 21, 1895.\*

## AMENDMENT OF LAW No. 11, 1887.

(Approved and enacted by the Hon. First Volksraad,  
article 1200, dated 16th September, 1895.)

WHEREAS, in order to prevent the spreading of infectious and contagious diseases, to preserve a good general state of health in the Republic, to safeguard its population, to encourage voluntary labour, and to protect fixed property, it has been found necessary to adopt measures for the checking of squatting, residing, or congregating of natives or other coloured persons in places other than those appointed for them by the Government, it is hereby provided as follows:—

1. If, besides the locations and other places already appointed by the Government for the residence of natives, further locations may be required, the Government shall make application for the same to the First Volksraad.

2. Outside the locations or places already appointed, or to be appointed in future in terms of article *one*, five native households at the most may live together on private properties, which natives shall be occupiers or hired servants under white persons, who shall be responsible for and supervise the health and safety of those natives. The express consent of the Government, acting on the proposal of the officials concerned, shall be necessary to allow a larger number of households to reside together.

3. Every white owner of a farm shall have the right to keep five coloured families as servants under him for each farm owned by him; with this proviso, however, that such families shall be kept subject to the provisions of article *two*, and on condition further that an owner of more than five farms may not keep more than twenty-five families on one farm.

4. Every white person of full age, residing on a farm as lessee, occupier, or bywoner, shall have the same right as the owner to keep five families provided the owner permits the same.

5. Every portion of a farm, provided it is separately transferred to the name of a white owner, shall be considered as a farm for the purposes of this law, provided however that portions of the same farm, although they are transferred separately to the same person, shall only be considered as one farm.

6. The number of families mentioned in articles *three*, *four*, and *five* may not be exceeded except with the express consent of the Government acting on the proposal of the officials concerned.

\* See F.V.R.R. 3rd October, 1895, Art. 1479 (*infra*).

7. Every owner, lessee, or occupier shall give a written permit of residence to the heads of the families which he keeps under the provisions of this law, showing the place where they may establish themselves, provided it is on his own ground or, with the consent of the owner, on the ground of another.

Any person who gives permits of residence to more families than he is entitled to, shall be fined in a sum not exceeding £10 for each family.

Every head of a coloured family residing on a farm without such permit of residence shall be considered as a vagrant, and shall be subject to a fine not exceeding £10 or imprisonment not exceeding one month, and on repetition (of the offence—Tr.) to lashes not exceeding ten.

All coloured persons residing on a farm without a lawful permit of residence shall be removed by the commissioner or sub-commissioner as soon as such comes to their knowledge.

8. Coloured persons who, under the provisions of this law, reside on private ground, may not depart—unless a special agreement has been entered into thereanent—save after three-months' notice, which notice shall be given by such coloured person both to the owner or occupier of the farm and to the commissioner or sub-commissioner, or in the absence of such owner or occupier to the aforesaid official only, who shall then, if possible, notify the same to the owner of the ground.

A coloured person contravening this article shall be punished by a fine not exceeding £10 or imprisonment not exceeding one month.

A similar notice of three months shall be given by the owner or occupier to any native lawfully kept by him, whom he does not wish to remain any longer; but in any case such coloured person shall have the right to harvest his standing crops.

9. A number of householders not exceeding five shall be allowed on farms possessed in ownership by natives in the same way as on farms belonging to white persons, which householders shall receive their written permit of residence from the Superintendent of Natives, and shall then not fall under the provisions of article *seven* of this law.

10. Law No. 11 of 1887 is hereby repealed.

11. This law shall come into operation on the 1st January, 1896.

## FIRST VOLKSRAAD RESOLUTION, 10th MAY, 1895.

Art. 65. The First Volksraad having considered the Government Letter, dated 10th instant, now on the order, having further considered the proposal made therein;

Government authorised to let Government ground for ferries.

Resolves to grant to the Hon. Government for that purpose the required authority, with instructions to carry out this Resolution in the manner most profitable to the public.

Said letter reads:—

... whereas the grant of ferry rights (pontrechten) is necessarily accompanied with the letting of grounds for a longer period than has been fixed by the Resolutions of your Hon. Body relating thereto, the Government has the honour to propose to this Hon. Body to grant it the authority, under certain conditions to be fixed by the Government, to conclude contracts† with persons for the establishment of ferries across the Crocodile River and elsewhere, and in connection therewith to let Government ground, to such an extent as may be required for a period of say ten successive years.

SECOND VOLKSRAAD RESOLUTION, 28th May, 1895,  
Article 236.\*

(Accepted as notice by First Volksraad Resolution, 1st June, 1895, article 236.)

The Second Volksraad having considered Item 18 of the report of the Head of Telegraphs, *re* advertisements on telegraph and telephone poles;

Advertisements on telegraph and telephone poles.

Resolves that such contracts shall in future take place by public tender.

Having further considered the contract of Van der Hoven;

Resolves that after the expiration of the periods of ten years from 18th September, 1894, the contract shall not be renewed save by public tender.

## FIRST VOLKSRAAD RESOLUTION, 8th June, 1895.

Art. 315.† The First Volksraad, having considered Government letter B.B. 979/95, together with the accompanying treaty *re* islands Vaal River, attaches its approval to the treaty mentioned.

Said treaty reads:—

## TREATY.

His Honour Stephanus Johannes Paulus Kruger, State President of the South African Republic, acting in the name and on behalf of the Government of the South African Republic on the one part;

Treaty Vaal River islands.

and

His Honour Francis William Reitz, State President of the Orange Free State, acting in the name and on behalf of the Government of the Orange Free State, on the other part;

† See Govt. Notice No. 41, 1897 (Ferry, Limpopo River—not published).

\* Published in *Staatskoerant*, 26th June, 1895.

† Published in *Staatskoerant*, 24th July, 1895.

Whereas the Vaal River forms the boundary between the South African Republic and the Orange Free State, and various islands exist in the river aforesaid, and it has been found desirable to determine to regulate and fix the boundary and the line of jurisdiction, and the division of the islands between the two States;

Whereas the two Governments agreed to delegate Commissions from both sides to investigate the matter aforesaid and to report thereon, and in consequence whereof a Commission consisting of Messrs. C. Klopper, member of the Raad, J. Botha, member of the Raad, and P. W. Smit, member of the Raad, and Theodore Thesen, Government Surveyor, was appointed by the Government of the Orange Free State; and a Commission consisting of Messrs. J. H. M. Kock, Landdrost of Potchefstroom, P. A. Cronje, Commandant, P. A. Venter, Abel Pienaar, and A. Bechtle, surveyor, was appointed by the Government of the South African Republic;

Whereas the two Commissions met on the bank of the Vaal River in the month November, 1884, and by mutual agreement made reports to their respective Governments recommending that the boundary and the line of jurisdiction between the two States should be where there are islands, the main stream of the Vaal River as indicated in certain sketch plans framed separately by the two Commissions and compared with each other, and further that the islands which are in the river should be divided as indicated in the respective sketches with different colours;

Whereas the Commissions aforesaid agreed to recommend to their respective Governments to have the Vaal River jointly surveyed in the neighbourhood of the town Parys and in the neighbourhood of Christiana, and to effect the definition of the boundary and line of jurisdiction and division of the islands between the two States at such survey, and whereas such survey has been made in March, 1891, by Surveyor W. E. Kolbe on behalf of the Government of the South African Republic, and by Surveyor Th. Thesen on behalf of the Government of the Orange Free State, and whereas the boundary and line of jurisdiction and the division of the islands have been indicated on the plans framed at the survey;

Therefore it is hereby agreed, provided, and fixed,

Boundary  
line and line  
of jurisdiction  
between  
S.A.R. and  
O.F.S.

That the boundary line and line of jurisdiction between the South African Republic and the Orange Free State shall be the middle line between the two banks of the river aforesaid;

That the boundary and the line of jurisdiction between the South African Republic and the Orange Free State shall be where there are islands (except in the neighbourhood of the town Parys and the town Christiana) the line of the main stream as indicated in the sketch plans framed by the two

Commissions, and copies whereof, marked one till twenty-seven inclusive, which have been signed as conforming therewith by the Assistant Surveyor-General of the South African Republic and by the Surveyor-General of the Orange Free State, annexed hereto.

In these sketch plans the islands are given coloured in yellow and red, the islands coloured yellow falling to the Orange Free State and those coloured red to the South African Republic;

And that the boundary and the line of jurisdiction between the South African Republic and the Orange Free State in the neighbourhood of the town Parys and in the neighbourhood of the town Christiana shall be the main stream of the river as indicated in the copies marked twenty-eight and twenty-nine of the surveyors' diagrams framed by Messrs. W. E. Kolbe and Theodore Thesen, also signed as correct copies by the Assistant Surveyor-General of the South African Republic and by the Surveyor-General of the Orange Free State, and that the islands between the main stream of the river and the bank of the South African Republic, coloured red, shall all be under the jurisdiction of the South African Republic, and that the islands between the main stream of the river and the Free State bank, coloured yellow, shall all be under the jurisdiction of the Orange Free State.

Given under my Hand and the Great Seal of the South African Republic at Pretoria on the Twelfth day of the month of March, Eighteen hundred and Ninety-five.

S. J. P. KRUGER,

State President.

C. VAN BOESCHOTEN,

Acting State Secretary.

Given under my Hand and the Great Seal of the Orange Free State at Bloemfontein on the Twenty-second day of April, Eighteen hundred and Ninety-five.

P. BLIGNAUT,

Acting State President.

H. W. BELL,

Acting Government Secretary.

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SECOND VOLKSRAAD RESOLUTION, 1st June, 1895,  
Article 298.‡

(Accepted as notice by First Volksraad Resolution, 20th June, 1895, Article 420.)

The Second Volksraad having considered Government letter containing Executive Council Resolution *re* authorisation to His Honour the State President as to copyright now on the order;

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‡ Erroneously published in *Staatskoerant*, 3rd July, 1895, as Article 296.

Amendment  
of Copyright  
Law (2, 1887).

Resolves to approve of same with the addition proposed by the State Attorney, viz., still to add after the word "books" the words "writings, engravings, maps, music, theatrical works, plays, etc.," as mentioned in article *one* of Law No. 2, 1887.

Said Executive Council Resolution is the one of 21st May, 1895, article *three hundred and seventy*, reading:—

On the order: Minute R. 8616/93, containing correspondence *re* addition of an article to Law No. 2, 1887, being the law for regulation of copyright;

The Executive Council having considered this correspondence, having considered the final advice of the State Attorney;

Resolves to propose to the Hon. Second Volksraad to change article *twenty-three* of this law into article *twenty-four*, and to read article *twenty-three* as follows:—

The State President shall have the right to confer by proclamation all privileges granted by this law on owners of copyright of books issued in any State or Colony, and there printed, provided all privileges according to the copyright existing there are conferred by such State or Colony to owners of the copyright of books issued and printed within this Republic.

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#### FIRST VOLKSRAAD RESOLUTION, 3rd July, 1895.

Art. 580. § The proposal made was approved.

Said proposal is contained in the following letter dated 25th June, 1895:—

Amendment  
of Bribery  
Law (10,  
1894).

For information and consideration of the Hon. First Volksraad I have the honour to forward you the enclosed Minute R. 5878/95 containing proposal of the Hon. the State Attorney to add after the word "official" appearing in Law No. 10, 1894, the words "and any person in service of the Republic."

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#### FIRST VOLKSRAAD RESOLUTION, 31st July, 1895.

Officials  
guilty of  
immorality,  
excessive use  
of drink, to be  
dismissed.

Art. 789.\* On the order was put a petition from P. F. Trichard and others, dated Klipfontein, 9th April, 1895, requesting that officials who are guilty of immorality or indulge in excessive use of strong drink should be dismissed.

The report of the Petition Commission read as follows:—

"The Commission agrees with petitioners, and recommends to your Assembly to refer this petition to the Hon. Government with instructions to act in accordance with the request contained in this petition."

The Raad by acclamation agreed with the Commission report.

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§ Published in *Staatskoerant*, 24th July, 1895.

\* Published in *Staatskoerant*, 14th August, 1895. See Act 19, 1908, sec. 13.

## FIRST VOLKSRAAD RESOLUTION, 31st August, 1895.

Art. 1066.¶ The First Volksraad having considered Government letter B.B. 1369/95, with the accompanying draft proclamation now on the order;

Resolves to approve said draft proclamation, and to declare it to have the force of law immediately after publication in the *Staatskoerant*.

This proclamation was dated 21st September, 1895, and was first published in the *Staatskoerant* on 25th September, 1895. It reads as follows:—

Whereas it has happened and still† happens that various persons, without the authorisation or instruction of this Government, meddle with matters concerning the natives, and with the policy of this Government with regard to the natives within this State and beyond the boundaries;

Meddling with matters concerning natives forbidden.

Be it therefore hereby enacted that the only persons who have the power and authority to treat with the native tribes, their chiefs and captains, in the name of the State, are the Superintendent of Natives, the Commissioners of Natives, and the Sub-Commissioners of Natives in the South African Republic;

Persons entitled to treat with native tribes, etc. .

And be it further made known that if any other person than the aforesaid officials shall be found to meddle with the natives in any way, or to negotiate as to any appointment of officials in connection with native affairs or in any way to interfere or meddle with matters relating to the natives without having been specially authorised thereto by the Government or Superintendent of Natives on behalf of the Government, shall be punished

Penalties.

for the first offence with a fine not exceeding £200 or not more than twelve months' imprisonment with hard labour;

for the second offence with a fine not exceeding £500 or not more than two years' imprisonment with hard labour;

for the third offence with imprisonment for three years with hard labour.

## FIRST VOLKSRAAD RESOLUTION, 3rd September, 1895.

Art. 1091. The First Volksraad having considered the motion Burger-Van Niekerk, now on the order, and the information given thereanent by the Hon. Government with regard to the erven situate in the old town Ohrigstad, approves of the action of the Government; and

How erven? )  
Ohrigstad to  
be dealt with.

Resolves to instruct the Hon. Government to further carry out Volksraad Resolution, article *four hundred and nineteen*,\* dated 14th June, 1889, as soon as possible as regards the calling up of the persons entitled and the giving out of

¶ Published in *Staatskoerant*, 25th September, 1895.

† Word "nog" is in Minutes, but was left out in publication in *Staatskoerant*, and in *Lokale Wetten*.

\* *Supra*.

the erven by lottery by a Commission under the chairmanship of the Landdrost of the District Lydenburg, and to let the adjoining lots of ground for agricultural purposes under the regulations at present existing, as also to sell by public auction the erven belonging to the Government and to report thereon in the next session.

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FIRST VOLKSRAAD RESOLUTION, 2nd October, 1895.

Government  
to render  
assistance to  
old indigent  
voortrekkers.

Art. 1427. The First Volksraad having considered Executive Council Resolution, article *six hundred and fifty-seven*, contained in Government Letter of 23rd September, 1895, *re* the rendering of assistance to old and, at the same time, indigent voortrekkers;

Resolves to agree with the Executive Council Resolution aforementioned, and therefore authorises the Government to render assistance not exceeding a sum of £75 to old voortrekkers who are actually indigent according to the nature of the case, and after due enquiry.

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FIRST VOLKSRAAD RESOLUTION, 3rd October, 1895.

Inclusion of  
mission  
stations under  
the Squatters  
Law.

Art. 1479. Section *one*† with the recommendations is approved.

One of these recommendations reads: "With regard to the inclusion of mission stations, under the Squatters Law, your Commission is informed by the Government that some of the old stations were recognised by the previous Government, and that thereafter notice was given to them to transfer their ground as locations to the name of the Superintendent of Natives. This was complied with by several of these stations, and your Commission recommends to instruct the Government to cause such old recognised stations, where such has not been done, to be informed that they must immediately comply with above notice. In default thereof such stations, like all other stations, fall under the provisions of the Squatters Law.

"Your Commission sees no possibility of also bringing the old recognised stations which have complied with the above notice, or do so without delay within the provisions of this law.

"At the same time your Commission suggests that the Government be instructed to submit to this Raad a list of these old recognised stations with all particulars."

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† Of the report of the Commission on the Labour Question.

GOVERNMENT NOTICE No. 141, 1895 (dated 7th June, 1895).

It is hereby notified, in order to prevent misunderstanding, and for the general information of persons interested,

Conditions of appointment of ministers as marriage officers.

(a) that the appointment of ministers as marriage officers in the South African Republic made by the Government are and only remain of force as long as they are recognised as ministers by authority of the church, as long as they continue to belong to the same church, and as long as they do not change their station (standplaats) or congregation;

(b) that as soon as they discontinue to belong to the church to which they now belong, or as soon as they change their station or congregation, they shall be bound to obtain a new appointment in order to continue as marriage officer.

**1896.**

## LAW No. 6, 1896.

AMENDMENT OF LAW No. 2, 1874, BEING EXTENSION OF  
ARTICLE *seven*.

(Approved by the Hon. Second Volksraad, Article 266, dated 23rd May, 1896, and accepted as notice by the Hon. First Volksraad, Article 563, dated 12th June, 1896.)  
7. *For text see Law No. 2, 1874, article seven.*

This amendment comes into operation on the 1st September, 1896.

LAW No. 8, 1896.

AMENDMENT OF ARTICLE *thirty-eight* OF LAW No. 12, 1894.

(Approved by the Hon. Second Volksraad, Article 291, dated 26th May, 1896, and accepted as notice by the Hon. First Volksraad, Article 566, dated 12th June, 1896.)

Whereas it is deemed necessary to amend article *thirty-eight* of Law No. 12, 1894, it is hereby enacted as follows:—

1. Article *thirty-eight* of Law No. 12, 1894, shall lapse, and shall be superseded by the following article:—

Art. 38. *For text see Law No. 12, 1894, article thirty-eight.*

2. This law comes into operation on 1st September, 1896.

## LAW No. 22, 1896.

## BEING AMENDMENT OF LAW No. 3, 1884.

*Telegraphs.*

(Approved by the Hon. Second Volksraad, Article 1410, dated 26th August, 1896; accepted as notice by the Hon. First Volksraad, Article 1754, dated 22nd September, 1896.)

Custody of  
paper tapes,  
minutes, and  
copies of  
telegrams.

1. The paper tapes, as well as the minutes and the copies of the telegrams, shall be kept with the necessary precaution to secure secrecy at least twelve months from the day that the telegram was handed in or received. After the expiration of this term they may be destroyed.

2. This law comes into operation immediately after publication in the *Staatskoerant*. §

LAW No. 23, 1896.

BEING AMENDMENT OF ARTICLE *eleven*, LAW No. 9, 1880.

(Confirmed by the Hon. Second Volksraad, Article 1403, dd. 26th August, 1896, and accepted as notice by the Hon. First Volksraad, Article 1753, dd. 22nd September, 1896.)

1-11. *For text see Law No. 9, 1880, article eleven.*

2. This law comes into operation immediately after publication in the *Staatskoerant*.||

## LAW No. 27, 1896.¶

## ON EXPLOSIVES.

(Approved by the Hon. First Volksraad, Articles 1901-1969, dated 4th and 6th November, 1896.)

*Articles one to eighty-two repealed by Ordinance No. 4, 1905, section one.*

Penalties for explosions caused through fault.

83. He to whose fault an explosion is attributable shall be punished

(a) by imprisonment not exceeding three months, or fine not exceeding £150, and in default of payment, imprisonment not exceeding three months, if common danger to property was thereby occasioned;

(b) by imprisonment not exceeding six months, or fine not exceeding £300, and in default of payment, imprisonment not exceeding six months, if the life of another person was thereby imperilled;

(c) by imprisonment not exceeding one year, or fine not exceeding £600, and, in default of payment, by imprisonment not exceeding one year, if the death of some person has been thereby caused.

Wilfully endangering property.

84. He who, by means of an explosion, wilfully occasions a common danger to property, shall be punished by imprisonment not exceeding twelve years with hard labour.

Wilfully imperilling life.

He who, by means of an explosion, wilfully imperils the life of another, shall be punished by imprisonment not exceeding fifteen years with hard labour.

In case of death.

He who, by means of an explosion, wilfully imperils the life of another, shall, if the explosion occasions the death of any one, be punished by life-long imprisonment or temporary not exceeding twenty years with hard labour.

*Articles eighty-five to eighty-nine repealed by Ordinance No. 4, 1905, section one.*

¶ Put in force from 1st January, 1898, by Proclamation, 27th December, 1897 (not published).

LAW No. 28, 1896.

*Superseding Law No. 2, 1888, and Law No. 16, 1894.*

SUNDAY LAW.

(Approved and enacted by the Hon. First Volksraad, Article 2028, dated 13th November, 1896.)

Whereas it has been found desirable to make provision for the due observance and against the violation of the Sabbath, it is hereby enacted and provided as follows:—

- |   |  |
|---|--|
| <p>1. As being guilty of a violation of the Sabbath, shall be punished for each offence by imprisonment not exceeding one month, or by a fine not exceeding five pounds sterling, for which on default of payment imprisonment not exceeding one month, shall be substituted:</p>       | <p>Penalties for violation of Sabbath.</p>   |
| <p>(a) He who on Sunday does agricultural or garden work, except when such is done for preservation of agricultural produce and other fruits, and in cases of pressing necessity.</p>   | <p>Agricultural or garden work.</p>          |
| <p>(b) He who discharges a gun or other firearm on Sunday, without being duly authorised thereto by law or otherwise, unless he does so in self-defence and for the protection of his property.</p>   | <p>Discharging a firearm.</p>                |
| <p>(c) He who hunts for game or other animals on Sunday with a gun, dogs, or other animals. It shall, however, be permissible to kill vermin which do damage on Sunday on any one's ground.</p>   | <p>Hunting.</p>                              |
| <p>(d) A transport-rider, or overseer of a transport wagon who enters the boundaries of a town on Sunday, or, being in the town, travels through the town with his wagon, or loads or off-loads or causes to be loaded or off-loaded freight on Sunday.</p>                             | <p>Transport riding in towns.</p>            |
| <p>(e) He who, on Sunday, causes disturbance or hindrance, either by travelling or riding, or by making a din or noise, or in another way.</p>  | <p>Causing disturbance or hindrance.</p>     |
| <p>2.† As being guilty of a violation of the Sabbath, shall be punished for each offence by imprisonment not exceeding six months, or fine not exceeding one hundred pounds sterling, for which on default of payment, imprisonment not exceeding six months, shall be substituted:</p> | <p>Penalties for violation of Sabbath.</p>   |
| <p>(a) He, who on Sunday sells or offers or exposes for sale goods, merchandise, cattle, or other live stock.</p>   | <p>Selling or exposing for sale.</p>         |
| <p>(b) He who on Sunday keeps open a shop, store, or other place with the object of selling or trading, or shall be engaged as haircutter, barber, or hairdresser.</p>  | <p>Keeping open of a shop, etc.</p>          |
| <p>(c) He who on Sunday works with steam or other machines or causes the same to be worked.</p>   | <p>Working with steam or other machines.</p> |

† This article is repealed by Ord. 54, 1903, section *twelve*, in so far as it applies to the working of a mine.

Herefrom is excepted the working with machinery in the public service, viz., on railways, and for lighting and the pumping of water for public use.

(d) He who on Sunday performs or causes to be performed any work in or at (bij) a mine. From this is excepted the pumping of water and such other absolutely necessary work the delaying or interrupting of which may have the result of the stoppage of the mine. The crushing of quartz on Sunday is prohibited unless automatic (self-working) appliances have there been provided (aangebracht), and no nuisance (stoornis) is thereby caused, and together not more than five per cent. (five of each hundred) of the usual workmen of the company are employed.

Seizure and sale of articles with which offence committed.

3. The goods, merchandise, the cattle, or the other live stock, and the firearms with which the offence (mentioned in articles *one* and *two*) has been committed may be seized by every justice of the peace, field cornet, assistant field cornet, constable, or gamekeeper, and may in the event of a fine being inflicted, be sold in order to recover the fine from the proceeds thereof if the fine is not paid within three weeks after the sentence has become final.

Permissible acts.

4. Permissible and not punishable is

Selling of medicines and keeping open.

(a)\* the selling on Sunday of medicines by apothecaries and druggists and the keeping open by the said persons on that day of a shop, store, or other place with the object of selling medicines;

Supplying food to travellers and inmates at hotels, etc.

(b) the supplying on Sunday of the necessary food and drink to travellers and inmates by a licensed hotel or boarding-house keeper;

Selling of meat, bread, fish, and keeping open.

(c)\* the selling on Sunday before 9 o'clock in the morning of meat, bread, or fish by butchers, bakers, or fish-mongers, and the keeping open during those hours by such persons of the shop, store, or other place with the object of selling meat, bread, or fish;

Selling of milk.

(d) the selling of milk on Sunday before 9 o'clock in the morning and after 4 o'clock in the afternoon by milk sellers, and the keeping open by such persons during those hours of a shop, store, or other place with the object of selling milk.

Delivery on Sundays by Govt. contractor.

5. The Government has the right to permit or order the delivery on Sunday of eatables or other goods by a Government contractor.

Provision as to markets.

6. The market master or other persons charged with the care or supervision over a market, who on Sunday on the market sells, offers for sale, or permits another person to sell or offer for sale, goods, merchandise, cattle, or other live

\* Sub-sections (a) and (c) are repealed by Act 32, 1908, section *two*, in so far as these sub-sections relate to the selling on Sundays of medicines, meat, and fish; but see *Zeeman vs. Rex* (1909, *Leader Law Reports*, p. 375).

stock shall, as being guilty of a violation of the Sabbath, be punished for each offence by imprisonment not exceeding thirty days, or a fine not exceeding five pounds sterling, for which on default of payment imprisonment not exceeding thirty days shall be substituted.

Penalty.

7. The owner, lessee, or manager of a public billiard room, or other public place of recreation, who allows or permits some game or other to be played there on Sunday, or public entertainments to be held there, such as theatrical performances, *café chantants*, public dances, concerts (except for sacred music), races, shall be punished by imprisonment not exceeding one month or fine not exceeding fifty pounds sterling, for which on default of payment imprisonment not exceeding one month shall be substituted.

Games, public entertainments forbidden.

Penalty.

8. All Landdrosts, Justices of the Peace, Field Cornets, Assistent Field Cornets, and police officials have the right to disperse persons who have assembled on Sunday at a public or open place for the purpose of playing or gambling there, or of holding dog or cockfights there, or of holding races there, or of pitting animals to run against each other in order to bet on same or of attending such occasions, as also in cases of beer and dancing parties of natives, and to seize, destroy, or in other ways dispose of the contrivances, instruments, or animals used thereat. All persons as aforesaid engaged in playing, gambling, or in holding dog or cockfights, races, or in pitting animals to run against each other, or making bets thereon, or attending such occasions, may be arrested and punished by imprisonment not exceeding six months, or by a fine not exceeding one hundred pounds sterling, for which on default of payment, imprisonment not exceeding six months shall be substituted.

Right to disperse persons assembled for certain purposes.

Seizure and destruction of articles used.

Penalties.

9. Landdrosts, other officials with similar jurisdiction, and all Resident Justices of the Peace, have jurisdiction in all cases of contravention of this law.

Jurisdiction of landdrosts, etc.

10. The Government has the power in each special case to determine what portion of the fine, the forfeited goods, or the proceeds thereof shall be awarded to the informant, and who, with regard hereto, is to be deemed the informant.

Award of portion of fine to informant.

11. The Laws No. 2 of 1888 and No. 16 of 1894 are hereby repealed.

Repeal.

12. This law comes into operation immediately after publication in the *Staatskoerant*.‡

Operation.

‡ Published in *Staatskoerant*, 25th November, 1896.

## LAW No. 29 OF 1896.

## BEING AMENDMENT OF LAW No. 2, 1895.

(Approved and amended by Articles 2073 and 2077 of the Minutes of the Hon. First Volksraad, dated 19th November, 1896.)

Whereas the necessity has appeared to lay down regulations about the sale of adulterated and tainted foodstuffs, and liquors and medicines, it is hereby enacted as follows:—

Penalty against sale, etc., of adulterated foodstuffs, liquors, etc.

1. He who sells, offers for sale, exchanges, or has in possession with the object of selling or bartering, or causes to be sold, offered for sale, bartered, or exchanged, adulterated or tainted foodstuffs and liquors or medicines deleterious for human consumption, shall be punished by a fine not exceeding fifty pounds sterling (£50), or on non-payment, by imprisonment not exceeding six months with or without hard labour.

Grain, etc., corresponding with sample excluded.

All kinds of grain, potatoes, fruits, vegetables, fruits grown in the soil (aardvruchten) and eggs, of which a sample can be delivered, are excluded from paragraph 1 of this article.

Penalty for adulteration of foodstuffs, liquors, etc.

2. He who intentionally adulterates and renders deleterious for human consumption foodstuffs and liquors or medicines, and sells, offers for sale, or has the same in possession with the object of selling, or causes the same to be sold or offered for sale, shall be punished by a fine not exceeding one hundred pounds sterling (£100), or on non-payment, by imprisonment not exceeding twelve months with or without hard labour.

Seizure and destruction.

3. Adulterated or tainted foodstuffs and liquors or medicines deleterious for human consumption, may be immediately seized and destroyed without any compensation.

Keeping of foodstuffs for sale.

3a.† *All foodstuffs which are intended for sale must be kept for that purpose in a special house, apartment, or room, which house, apartment or room must be kept in a clean and neat condition, and must be properly ventilated, and may not be used for any other purpose, and may in no case have direct connection with any sleeping apartment or stable.*

Penalty.

*Contravention of this article shall be punished with a fine not exceeding fifty pounds sterling (£50), or, on non-payment, with imprisonment with or without hard labour not exceeding six months, and in addition to this the licence may be withdrawn or refused. The provisions of this article apply only to licensed dealers, shopkeepers, or hawkers.*

Jurisdiction.

4. The inferior courts in this Republic shall have jurisdiction in cases of contravention of this law.

† Added by Law No. 6, 1898, Art. 1.

5. In every district and on every goldfield, where such is necessary, a competent person may be appointed by the Government, who shall be charged and shall be entitled to test and to examine all foodstuffs and liquors or medicines sold, offered for sale, delivered, or being in (any one's—Trs.) possession.

Persons charged with testing and examining foodstuffs, etc.

6. Adulteration in this law shall mean admixing or adding any substance deleterious to health, or done with the object of increasing the quantity of anything, or deteriorating or concealing the quality, † *or the removal of any original constituent from any substance whereby the quality is deteriorated.*

Adulteration defined.

7. From the moment of this law coming into operation, all cases which occur shall be punished under this law without exception.

Cases falling under law.

8. This law comes into operation one month after publication in the *Staatskoerant*. §

Operation.

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† Sentence in italics added by Law No. 6, 1898, Art. 2.

§ Published in *Staatskoerant* of 2nd December, 1896.

## FIRST VOLKSRAAD RESOLUTION, 7th May, 1896.

Exchange of  
burgher-right  
erven.

Art. 52.\* The Executive Council Resolution on the order was approved by acclamation.

Said Executive Council Resolution is the one of 21st September, 1895, article *six hundred and sixty*, reading as follows:—

On the order: Minute R. 7807/95, containing report of the Landdrost of Waterberg, *re* burgher-right erven. The Executive Council having taken cognisance of the Resolution of the Hon. First Volksraad, under article *eight hundred and seventy-two*, dated 9th August, 1895, having further considered the report of the Landdrost to grant to those persons who have received erven at Nylstroom but prefer to have erven at Hartingsburg or Pietpotgietersrust, an equal number of dry erven in those towns in exchange for their right in Nylstroom;

Resolves to agree with that recommendation, and to propose to the Hon. the First Volksraad to authorise the Government to allow such an exchange also in other towns where it deems it necessary or equitable.

## SECOND VOLKSRAAD RESOLUTION, 22nd May, 1896,

## Article 268.†

(Accepted as notice by First Volksraad Resolution, 10th June, 1896, Article 551.)

Scale and  
measures to  
be erected at  
every market.

The Second Raad, having taken cognisance of article *seven* of the amendment of Law No. 2, 1874, being extension of article *seven* as approved (resolves—Trs.) to instruct the Government to erect a scale and measures at the cost of the Government (van Regeerings wege) at every market in the South African Republic, so that the public can be given the opportunity to weigh and measure its products, if such is deemed desirable by the public.

## FIRST VOLKSRAAD RESOLUTION, 25th June, 1896.

Surveyor-  
General not  
to have  
private  
practice.

Art. 696.‡ . . . The Raad resolves further to agree with the proposal relating to the carrying on of private practice by the Surveyor-General.

Said proposal is contained in the report of the Surveyor-General, reading as follows:—

In conclusion I wish, as in my last report, to express the desirability of repealing the Volksraad Resolution of 16th June, 1870, whereby the Surveyor-General was permitted to carry on private practice.

\* Published in *Staatskoerant*, 27th May, 1896; see F.V.R.R. 6th August, 1896, Art. 1133 (*infra*).

† Published in *Staatskoerant*, 1st July, 1896.

‡ Published in *Staatskoerant*, 8th July, 1896.

## FIRST VOLKSRAAD RESOLUTION, 28th July, 1896.

Art. 1040. § The First Volksraad having considered Government letter now on the order, agrees with the proposal for combating the rinderpest, as proposed by the Government, and authorises it to cause the wire fence to be constructed also over private ground, and to cause such fence to be removed (*afbreken*) again afterwards; with this proviso, however, that as little hindrance or damage as possible be caused to lands (*landerijen*) or homesteads (*werven*).

Fencing in of area infected by rinderpest.

Said proposal of the Government was embodied in Executive Council Resolution, dated 27th July, 1896, article *six hundred and twenty-three*, reading as follows:—

On the Order: Discussion as to the desirability to separate by a fence of poles and wire that portion of the State where the rinderpest has broken out from that portion where this cattle disease has not yet appeared;

The Executive Council being of opinion that such a fence would be desirable, in order to prevent the spread of the disease as much as possible;

Resolves to ask authority from the Hon. First Volksraad to incur the expenditure of having such a separation constructed.

## FIRST VOLKSRAAD RESOLUTION, 6th August, 1896.

Art. 1133. || The First Volksraad having considered Government Letter B.B. 1909/96, together with Executive Council Resolution, article *five hundred and fifty-two*, dated 6th July, 1896, therein contained, and now on the order;

Exchange of erven in case of alteration of district boundaries.

Resolves to approve of that Executive Council Resolution, and to grant the Hon. Executive Council the authority asked for therein.

Said Executive Council Resolution reads:—

On the order: Minute R. 4429/96 in which it was proposed by the Surveyor-General and Registrar of Deeds to request authority from the Hon. First Volksraad to give to those persons whose farms have by change of district fallen into a new district the right to which they are entitled in other towns, to exchange (their *erven*—Trs.) if desired for *erven* in towns situate in this new district. The Executive Council, after having duly considered the matter, and noting that First Volksraad Resolution, article *fifty-two*, dated 7th May, 1896, gives no authority to that effect, resolves to ask for authority from the Hon. First Volksraad to grant to persons whose farms have by change of boundaries or otherwise fallen into one of the new districts, in exchange, if they so desire, *erven* in towns situated in the new district, in place of the *erven* to which they may be entitled in other towns.

§ Published in *Staatskoerant*, 5th August, 1896.

|| Published in *Staatskoerant*, 12th August, 1896.

## SECOND VOLKSRAAD RESOLUTION, 24th July, 1896,

## Article 940.†

(Accepted as notice by First Volksraad Resolution, 11th August, 1896, Article 1181.)

Regulations  
re grant of  
stands to poor  
people.

The Regulations\* as amended being put to the vote were accepted.

They read as follows :—

Regulations re granting of stands by the Government to indigent persons to build thereon a temporary residence on the different goldfields of the South African Republic.

Article 1. It shall be open to the Government after consultation with the head of the Mining Department and the local officials to grant, in cases of great need of really indigent burghers or the widows of burghers, stands not larger than 50 feet by 50 feet on areas situate on Government grounds outside the stand townships on the goldfields of this Republic for the purpose of building thereon a temporary residence.

2. The granting of a licence on a stand on Government ground for the purpose of building thereon a temporary residence shall only take place as long as the first licence holder himself or his lawful heir occupies the stand himself.

3. The licence moneys due on such a stand shall amount to 2s. 6d. per month to be paid monthly in advance.

4. If during three successive months the payment of the stand licence is in arrear, the Government has the right to confiscate the stand together with everything on it.

5. As soon as the first licence holder or his lawful heir vacates the stand, it shall lapse to the Government, without his being entitled to any compensation. He, however, retains the right on his vacating the stand to break down and to remove everything which has been accomplished by his manual labour on that stand.

6. If the Government should in any way dispose of (beschikken over) a stand, occupied by a person lawfully entitled to occupy same, such occupier is, if he has built on such stand, entitled to compensation after and according to a proper taxation. Such compensation shall only refer to the taxation of the manual labour done by the holder.

7. On grounds obtained under these regulations no holes may be dug for the making of bricks, the carting away of ground, or otherwise.

8. The licence holder shall not have the right to let any portion of his stand.

9. Every licence holder shall be obliged to keep the stand granted to him properly clean, and shall remove all rubbish from his stand at least every Saturday.

† See Act 27, 1907 ; the operation of S.V.R.R. of 1896, Art. 940, is restricted by Act 34, 1908, sec. 44.

\* These regulations were published under Govt. Notice No. 303 of 1896 in *Staats-boerant*, 19th August, 1896.



FIRST VOLKSRAAD RESOLUTION, 3rd and 4th  
November, 1896.

Artt. 1884-1897. † Sections *one, two, three, four, five, ten,* and *eleven* of the Commission report were accepted as notice, and sections *six, seven, eight, nine,* and *twelve* were confirmed.

The report read as follows:—

Your Commission, acting under instructions of your Hon. Assembly, contained in article *one thousand and sixty-four*, dated 30th August, 1895, has duly investigated the matters referred to them, in consultation with the Hon. Government and the Hon. State Attorney, and has the honour to report the following to your Hon. Assembly:—

1. In consequence of the award by the arbitrator, the Hon. Melius de Villiers, Chief Justice of the Orange Free State in the matter of the difference (kwestie) in connection with Law No. 3, 1885, between this Republic and the British Government, a provisional report was lodged by your Commission during the session of 1895, in consequence whereof First Volksraad Resolution, article *one thousand three hundred and fifty-three*, dated 8th September, 1893, was put out of force by article *one thousand five hundred and fifty-one*, dated 8th October, 1895, of the resolutions of your Assembly.

2. After that resolution, and the award of the arbitrators already mentioned, which was recognised by both the Governments, nothing further stood in the way of strictly carrying out Law No. 3, 1885.

3. The Hon. Government, however, entertained difficulties as to carrying into execution the provisions of the said law until the locations to which the coolies and other Asiatics would be consigned had been duly surveyed and beaconed off in all towns, and as the selection of suitable places and also the survey and beaconing off of same was a task demanding some time (tijdroovend werk), the Government found itself compelled to suspend the operation of the law in the meantime.

4. Your Commission agrees with the view of the Government as regards the desirability of applying said law simultaneously in all towns, or in any case in the main centres.

5. It has now appeared to your Commission that locations have practically been provided for everywhere where such is necessary, and are ready for occupation. Your Commission attaches a schedule from which the condition of the various locations will appear.

6. No further reason therefore exists for still delaying the strict application of the law, and your Commission most strongly recommends that Law No. 3, 1885, be immediately applied and rigorously maintained.

† Published in *Staatskoerant*, 11th November, 1896.

7. Your Commission would, however, recommend that an exception be made as to such coolies, Asiatics, etc., who have acquired contracts of lease before 1889, and that it be permitted to them to remain on the ground leased until their contract of lease shall have expired. Such persons have no claim to this indulgence, but a similar exception was also made in the resolution of 8th September, 1893, and although it has been put out of operation, your Commission would still recommend to maintain this provision made therein.

Exception as to certain coolies, etc.

8. (*This section contains a proposal to amend Law No. 13, 1887, which law is repealed.*)

9. (*This section contains a proposal to amend Law No. 13, 1887, which law is repealed.*)

10. A petition from Pietpotgietersrust requesting a location for Asiatics there has also been forwarded to your Commission under article *one thousand and forty-two* of your resolutions of this year. From the attached schedule it will appear to your Assembly in how far their request has been complied with.

Location, Pietpotgietersrust.

11. A further number of petitions was also forwarded to your Commission urging the strict carrying out of Law No. 3, 1885. As these petitions are addressed to the Government, your Commission found itself unable to submit them to your Assembly.

Petitions.

12. In conclusion, your Commission considers that it should again recommend to your Hon. Assembly that the Government be instructed to apply Law No. 3, 1885, rigorously and without delay, since the influx of Asiatics in South Africa increases daily, and in a very alarming degree, and not only in this Republic, but also causes serious anxiety in the other States and Colonies of South Africa.

Law No. 3, 1885, to be applied rigorously and without delay.

#### FIRST VOLKSRAAD RESOLUTION, 4th December, 1896.

Art. 2237.\* In consequence of article *two thousand one hundred and eighty-eight* of the Minutes of the 2nd inst., the amended draft regulations for the letting of Government grounds now came on the order in their entirety.

Letting of Government grounds.

They were read and accepted by acclamation without any amendment.

The regulations now approved read as follows:—

#### REGULATIONS FOR THE LETTING (VERPACHTING) OF GOVERNMENT GROUNDS.

The letting of Government grounds shall take place under the general conditions following below, and further, if necessary, under such special conditions and stipulations as the Executive Council, taking into consideration the interests of the public as well as of the State shall deem necessary to fix for each separate contract of lease.

How letting to be made.

\* Published in *Staatskoerant*, 16th December, 1896, under Govt. Notice No. 548 of 1896; see Govt. Notice No. 107 of 1897, *re* cancellation of leases (not published).

Letting by Executive Council ; persons preferent.

1. The letting shall be effected by the Executive Council out of hand with this proviso that the monthly lessees as also the occupiers of Government grounds shall have preference.

Period of lease.  
May be let out of hand.

2. The period for which Government grounds may be let shall be twenty-one years at the outside. The Executive Council also has the right to let out of hand grounds not let, subject to a monthly notice.

Lessee to occupy ; for- feiture on non-compliance.

3. The lessee is obliged to occupy the grounds leased by him. On not complying with this condition the contract of lease may be declared to have lapsed, whereupon the Govern- ment shall immediately come into possession of the ground.

Exceptions.

From the obligation to occupy are excepted the lessees who have hired Government grounds exclusively for winter pasturage of cattle, but in that case this exception should be mentioned in the contract of lease.

Payment of rent.

4. The payment of the rent shall be made every six months. If the rent be not paid strictly in the manner prescribed, the Executive Council shall have the power to declare the lease to have lapsed, whereupon the Government shall immediately come into the undisturbed possession of the ground, which may then be leased or let afresh by the Executive Council in accordance with the provisions of these regulations.

Forfeiture.

5. If a person has remained indebted to the Government by reason of current or former rent, no lease of any portion of Government ground shall be granted to him before he has paid the arrears.

No lease to be granted to persons in arrear with rent.

Sub-letting prohibited.

6. The lessee may not sub-let the ground leased by him or any portion or portions, save after written permission obtained from the Executive Council.

No attach- ments to be laid ; rights excluded from insolvency.

No attachments may be laid on contracts of lease for debts or otherwise, nor (evenmin) shall the rights acquired under these contracts be brought up as assets in an insolvent estate.

Lessee not to cause damage.

7. The lessee may not cause any damage to the houses and constructions (getimmerten) which already stand on the grounds, or are erected thereon by him. He shall take care that these do not decrease in value ; he shall for that purpose keep them in good order and condition, and so deliver same to the Executive Council on determination of the contract.

To be kept in good order and condition.

After expira- tion, applica- tions to be invited.

After expiration of the period of lease, applications shall be invited by the Executive Council for a new lease. The occupier or lessee whose term of lease has expired, shall always have the preference for the new lease. In case the lessee whose term of lease has expired does not wish to make use of this preference, then the following lessee shall be obliged to pay compensation to the previous lessee for manual labour done by him and for improvements made. This compensation shall be fixed by taxation, provided : First, that not more than half of the taxed value of the manual

Compensation to previous lessee.

labour done and of the improvements made shall be compensated; second, that the compensation shall in no case exceed the sum of £2,000.

8. The lessee of Government grounds may not sell, dispose of, or exchange any wood standing on such ground save under licence according to law, but he shall be permitted to cut wood for his own use.

Disposing of wood prohibited save under licence, except for own use.

From the provisions of this article trees planted by the lessee himself are excluded.

9. The lessee has no right whatever to or with reference to metals or minerals or precious stones which might be discovered on or in the ground, with the exception of coal, to which the lessee is entitled for his own use.

No rights to metals, minerals, or precious stones.

The lessee may not prohibit the prospecting and digging under licence or permission from the Government unless damage should be caused thereby, to houses, buildings, constructions (getimmerten) lands (landerijen) or other works constructed on the ground, or to trees planted by him.

If the farm let, or the piece of ground let, be declared a public digging by the Government, the lessee shall during his term of lease be entitled to a tenth share of the proceeds of the licence moneys.

10. The Executive Council retains the right to make, or to cause to be made, roads (including railways and tramways) and other public works, e.g. waterfurrows and such like, and for that purpose to take and use materials from every portion of the ground, in which case the lessee shall have no right whatever to compensation, save only for the damage caused to existing residences, buildings, and other constructions, lands, gardens, and plantations.

Executive Council has right to make roads, build railways, etc.

Compensation.

11. The Executive Council retains the right at all times to declare the contract void for public purposes in respect of the whole ground, or a portion thereof, against payment to the lessee according to taxation, to be fixed by arbitration and in terms of article *seven*, for the improvements made on such ground or on that portion of such ground.

Contract may be declared void for public purposes.

The Government then immediately comes into the undisturbed possession of the ground.

12. These regulations only refer to farms or portions of ground which have already been surveyed, and, with exception of those portions of ground set apart as forests, saltpans, or for public purposes; they also apply to all other portions of ground as soon as the diagrams thereof have been confirmed.

Application of regulations.

The Government may, in the meantime, let unsurveyed grounds from month to month.

13. The number of morgen to be granted to one person for the lease of Government ground shall not exceed 3,750 morgen.

Size of ground.

14. Burghers entitled to vote shall have preference in the letting of Government grounds.

Burghers preferent.

15. This law comes into operation on 1st April, 1897.

Operation.

FIRST VOLKSRAAD RESOLUTION, 4th December,  
1896.

Art. 2238.\* In consequence of article *two thousand two hundred and twelve* of the Minutes of the 3rd instant, the draft regulations for the letting of Government grounds for the planting of sugar, coffee, and cotton plantations were now put on the order in their entirety.

They were read and accepted by acclamation without any amendment.

The regulations now approved of read as follows:—

REGULATIONS FOR THE LETTING OF GOVERNMENT GROUNDS FOR  
THE PLANTING OF SUGAR, COFFEE, AND COTTON PLANTATIONS.

The letting of Government grounds for that purpose shall take place on the general conditions following below:—

Letting by  
Executive  
Council,  
period of  
lease, extent  
of ground.

1. The letting shall be effected by the Executive Council to any person or persons for the period of thirty years, while not more than 10,000 morgen of ground may be granted to a person or company.

Rental.

2. The lessee may use the piece of ground hired by him for the period of thirty years against payment of £1 per 1,000 morgen per annum with the exclusive object however of the planting of coffee, sugar, cotton, and tropical plants under the express conditions

Conditions.

(first) that within the period of two years he shall have at least 10 morgen out of every 1,000 morgen of ground under plantation;

(second) that within the period of five years he shall have at least one manufactory in proper working order, and on non-compliance with the conditions above mentioned, the lease shall be declared lapsed and the Government may immediately again come into possession of the ground.

Percentage on  
net profits.

3. The lessee shall, after expiration of the first ten years, in addition pay annually  $7\frac{1}{2}$  per cent. of the net profits into the State Treasury for a further term not exceeding the period of twenty successive years. The payment of the rent may, with consent of the Government, be altered to a fixed sum per year to be determined by the Government in consultation with the lessee instead of a payment of  $7\frac{1}{2}$  per cent. of the net profits.

Rent may be  
altered to  
fixed sum.

Lessee to keep  
proper books.

4. The lessee shall be obliged to keep proper book of all matters relating to the manufactory or manufactories, and shall annually send in to the Government a sworn return thereof under penalty of a fine not exceeding the sum of £250 for each contravention or forfeiture of this contract of lease.

Inspection by  
official.

5. The Government is entitled at any time to appoint an official to inspect, together with a person appointed by the lessee, the books of the manufactory or manufactories, the

\* Published in *Staatshoerant*, 16th December, 1896, under Govt. Notice No. 546 of 1896.

manufactory or manufactories themselves, buildings, grounds, plantations, etc., to assure itself of the proper compliance with the regulations and contracts.

6. No lease of any Government grounds may be given to a person who has remained indebted to the Government in respect of current or previous rent before the arrear is fully paid.

No lease to be granted to persons in arrear with rent.

7. The lessee may not sub-let the ground leased by him or portion thereof save after having obtained written permission from the Government.

Sub-letting prohibited.

8. Three years after the expiration of the period of two years mentioned in article *two*, the lessee shall be obliged for the further period of the contract of lease to have at least 50 morgen out of every 1,000 morgen of ground under plantation.

Duty of lessee.

9. The lessee may cause no damage to houses and constructions which are on the grounds and of which he has been granted the usufruct or which have been erected by him. He shall take care that these remain in good order, and so deliver them to the Government on the determination of the contract.

Lessee not to cause damage.

10. The lessee may not use or cut wood except only for domestic use unless they are trees planted by himself or which had to be eradicated for the purpose of extending the plantation.

Woodcutting prohibited except for domestic use.

11. The lessee may not prohibit the cutting of wood by other persons who have permission thereto from the Government, unless by the cutting of wood damage is caused to his plantations.

Woodcutting by persons having permission.

12. The lessee has no right whatever to or with reference to metals or minerals or precious stones which may be discovered on, in, or under the ground. He may not prohibit the prospecting and digging under licence or permission from the Government. Should it however appear that damage might be caused to the plantation by the prospecting for metals, minerals, or precious stones, then the lessee has the right to make complaints to the Government.

No rights to metals, minerals, or precious stones.

13. The Government retains the right to make, or cause to be made, roads (including railways and tramways) and other public works and waterfurrows and such like, and for that purpose to take and to use materials from every portion of the ground.

Government has right to make roads, build railways, etc.

14. The Government retains the right at all times for public purposes to declare the contract void in respect of the whole ground or a portion thereof against payment to the lessee according to taxation, to be fixed by arbitration, for the improvements made on the ground or on that portion of that ground. The Government then immediately comes into the undisturbed possession of the ground.

Contract may be declared void for public purposes. Compensation.

15. These regulations come into operation immediately after publication in the *Staatskoerant*.

Operation.

## FIRST VOLKSRAAD RESOLUTION, 10th December, 1896.

Consul-  
Generals, etc.,  
of the  
Netherlands  
empowered to  
solemnize  
marriages  
and to frame  
registers of  
births and  
deaths of  
Nether-  
landers.

Art. 2286.† The discussion was closed, and, being submitted to the vote, the Executive Council Resolution now on the order was accepted.

Said Executive Council Resolution is the one of 3rd December, 1896, article *one thousand and forty*, reading:—

On the order: Minute R.A. 2582/95 (E.C.R. 1410/96) containing amongst others a letter from the Consul-General of the Netherlands at Pretoria applying on behalf of his Government that deeds affecting the civil status (*acten van den Burgerlijkenstand*) to be framed by Netherland Consular Officials in the South African Republic should be recognised as valid in this country by the Government and authorities concerned, the Executive Council, taking into consideration the fact that provision has already been made by treaty between the South African Republic and other States for the framing of such deeds, taking into consideration the desirability that a concession of a similar nature should also be given to the Netherland Consular Officials, taking into consideration, however, at the same time, that this concession can be most aptly made in the form of a special provision;

Resolves to recommend to the Hon. First Volksraad to authorise the Government to make provision, with consent and advice of the Executive Council and in such manner as may be found most desirable and serviceable, that the Consul-Generals, Consuls, and Vice-Consuls of the Kingdom of the Netherlands in the South African Republic shall have the right, in so far as they have been thereto authorised by their Government to solemnize marriages in the South African Republic valid according to civil law (*burgerlijk geldig*) to frame registers of births and deaths of subjects of the Kingdom of the Netherlands, and further that such marriages and registers shall be recognised as legal and valid in the South African Republic.

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GOVERNMENT NOTICE No. 525, 1896.

Publication of the report \* of the commission relating to the fencing in of railways.

Said report read as follows:

Fencing in  
of railways.

Your commission appointed in consequence of your resolution dated 19th August, 1896, article *one thousand two hundred and twenty-nine*, re fencing in of railways, after having considered the matter in consultation with the Government Commissioner of Railways, and taking into consideration that your Hon. Assembly has already adopted the principle of the fencing in of railways, has the honour to propose to you:—

† See, however, Act 13, 1909, section *eleven*.

\* Paragraphs 1 to 10 of the report were confirmed by F.V.R.R. 13th Nov., 1896, Artt. 2032-2044.

1. To instruct the Hon. Government to order the Railway Companies concerned to embark upon fencing in all lines in exploitation with this proviso however, that the Government shall be competent to permit fencing in not to take place in entirely uninhabited areas, which are not used for cattle even in winter, and specially to have a commencement made as soon as possible with those portions which run through thickly populated areas and further with observance of the following provisions.
2. Use shall be made as much as possible of wooden poles, exclusively of inland kinds of wood, approved of for this purpose by competent persons to be indicated by the Government.
3. The fencing shall have to consist of at least seven wires, viz., one barbed wire on the top, and further six galvanized smooth wires. The distance at which the poles are to be placed from each other, and the distances between the wires must be fixed in such a manner that no kind of stock could pass through (door dringen) the fence.
4. In using wooden poles the smooth wires must be pulled through holes bored into the poles.
5. The fence may not be placed outside the grounds expropriated for the railways unless the owner concerned consents to an erection outside that boundary.
6. The placing of gates or other means of closing on private crossings—already existing or which must still be made in terms of the second paragraph of Appendix III of the First Volksraad Resolutions, articles *nine hundred and sixty, nine hundred and sixty-three, nine hundred and sixty-five, nine hundred and sixty-seven, nine hundred and sixty-eight, and nine hundred and seventy-one*, dated 27th and 28th July, 1892 (Lokale Wetten 1890-1893, page 619)—shall as local circumstances require be arranged between the Railway Company and the owner concerned, in case of difference between these two parties the Executive Council shall decide after having heard the Field Cornet of the Ward.
7. If a gate has been placed on a private crossing at the request of the owner concerned, and he has the key thereof in his custody, then the Railway Company concerned shall be exempt from all responsibility for the consequences arising from the leaving open of such gate.
8. The placing of gates or other means of closing at public crossings is left to the Railway Company concerned under approval of the Government Commissioner of Railways.
9. The Railway Company concerned remains responsible for the damage arising from collision (aan- of overrijden) at all crossings where no gates have been placed.
10. In connection with section *nine* of this report your Commission wishes in conclusion to recommend that in order to prevent accidents as much as possible, and in order that should these still occur, the negligent party could be pointed out, the Hon. Government should be instructed to have the necessary regulations framed for the use of possible signals at crossings by night, which regulations after confirmation by the Executive Council shall have force of law until the First Volksraad may further decide thereon in its next ordinary session.

Instructions to fence in railway lines.

Poles to be used.

Seven wires : distance of poles.

Placing of fence.

Gates.

Gates at private crossings.

Gates at public crossings.

Responsibility for damage : collision.

Regulations.

**1897.**

APPENDIX \*

To the Treaty of Friendship and Commerce concluded at Potchefstroom in March, 1889, between the South African Republic and the Orange Free State, and the Protocol thereunto attached.

1. Article *two* of the Treaty of Friendship and Commerce is superseded by the following :—

The burghers of the South African Republic shall enjoy in the Orange Free State the same rights and privileges as and shall not be subject to higher taxation or more onerous duties than the burghers of the Orange Free State, and the burghers of the Orange Free State shall enjoy in the South African Republic the same rights and privileges and shall not be subject to higher taxation or more onerous duties than the burghers of the South African Republic.

The above rights and privileges shall not be considered to include the enjoyment of political rights.

2. After article *three* of the Treaty of Friendship and Commerce, a new article is inserted reading as follows :—

It is agreed upon by both contracting parties that no higher or heavier taxation shall be imposed upon the consumption, the production, the manufacture (verwerking) or fabrication, or upon any product of the production, the manufacture or the fabrication of the products of the soil and the industry of the other, than which is exacted upon the consumption, production, manufacture or fabrication, or upon any product of the production, the manufacture or the fabrication of the products of the soil and the industry of its own burghers, with observance, however, of the provisions of article *three* of the Potchefstroom Convention that the raw materials or chief ingredients of the products of the industry be also products of the other country.

Spirits and spirituous liquors are excluded from the provision that no higher or heavier taxation shall be imposed upon the consumption, the production, the manufacture or the fabrication, or upon any product of the production, the manufacture or the fabrication of the products of the soil and the industry of another.

3. Article *two* of the Protocol to the Treaty of Friendship and Commerce is altered into :—

It is further expressly understood that † article *two* of the Treaty is subject to the local provisions concerning jurisdiction and administration of justice.

\* Ratified by First Volksraad Resolution of 12th July, 1897, Art. 551. See Law 16, 1898 (Political Alliance; Mutual Assistance between S.A.R. and O.F.S.)<sup>†</sup> repealed by Tr. Pr. No. 34, 1901.

† The words underlined have been omitted in the Lokale Wetten, and the word "of" (van) substituted.

4. Every difference or question that may arise between the contracting parties as to the meaning, the interpretation, the signification or application of any article or provision of Treaty of Friendship and Commerce concluded in March, 1889, as also of the Protocol attached thereto, and of any article or provision of this agreement, shall be submitted to arbitration, at which each party shall elect an arbitrator who, in case of difference, shall appoint a third arbitrator, and the decision of the majority of them shall be final and binding.

5. This appendix shall be submitted on both sides to the approval and ratification of the respective Volksraads in their next ordinary sessions ; these ratifications shall be exchanged as soon as possible.

In witness whereof the State President of both sides have, under reservation of above ratifications, signed this appendix.

Thus done at Bloemfontein, the 17th March, 1897.

S. J. P. KRUGER,

State President of the South African Republic.

M. T. STEYN,

State President of the Orange Free State.

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POLITICAL TREATY WITH THE ORANGE FREE STATE.\*

The South African Republic and the Orange Free State, convinced of the many ties of blood and of friendship which bind the people of the South African Republic to the people of the Orange Free State ;

Desiring to make common the interests of both countries, and to bind both States closer to each other by a solemn treaty ;

Desiring with that object to establish a Federal Union between both States ;

Recognising, however, that such a Federal Union cannot come into operation until after some years ;

Animated with the wish to give at once already expression to the same sentiment and to the same aspiration which cause the desire for a Federal Union ;

Have now already in expectation of the establishment of such a Union, agreed as follows :—

1. There shall be perpetual peace and amity between the South African Republic and the Orange Free State.

2. The South African Republic and the Orange Free State mutually pledge themselves to support each other mutually with all available powers and means should the independence of one of the two States be threatened or attacked, unless the State which should have to give support shows the injustice of the cause of the other State.

3. It is understood between the Governments of both States that it is desirable that they will as speedily as possible mutually keep each other informed as to matters which might impair the peace and the independence of one of both States.

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\* Ratified by First Volksraad Resolution of 12th July, 1897, Art. 553.

Thus done and signed at Bloemfontein on this 17th day of March, 1897.

S. J. P. KRUGER,  
State President of the South African Republic.  
M. T. STEYN,  
State President of the Orange Free State.

PROTOCOL.

On the occasion of the signing of the above Political Treaty between the South African Republic and the Orange Free State it has been further agreed upon by both sides:—

1. The rights, privileges and duties of, and the victualling and supplying with ammunition, etc., of the officers and burghers of the State which renders the assistance shall be regulated by both Governments in consultation with each other under further confirmation by the Honourable First Volksraad of the South African Republic and the Honourable Volksraad of the Orange Free State.

2. The Commissions of both States, permeated by the desire to promote the closer union between the South African Republic and the Orange Free State by all possible means, and taking into consideration that the burghers of both States are already pledged in accordance with the Political Treaty to stand by each other in time of danger, and deeming it desirable therefore to grant to their burghers mutually Burgher Rights in a more facile manner, undertake to propose to their Governments to recommend to the Volksraads to grant to the burghers of both States who now possess the full franchise in their State, as also all lawful descendants born in their State, of such fully enfranchised burghers the full rights of burghers in the other State, on production of a certificate by the competent authorities of the State which they are leaving, to the effect that they are loyal and fully enfranchised burghers of that State, after taking the oath of allegiance and subject to such formalities and provisions as the respective Volksraads shall more fully enact (bepalen). Under lawful descendants are also understood the lawful descendants of the burghers of one of both States which are now deceased, but were at the time of their decease fully enfranchised burghers of that State.

3. Both the Commissions undertake to recommend to their respective Governments to submit for confirmation, in the South African Republic to the Honourable First Volksraad and in the Orange Free State to the Honourable Volksraad, a draft Volksraad Resolution as to the establishment of a Council of Deputies,\* as has been jointly agreed upon.

S. J. P. KRUGER,  
State President of the South African Republic.  
M. T. STEYN,  
State President of the Orange Free State.  
Bloemfontein, the 17th March, 1897.

\* This Council of Deputies was established by F.V.R.R. 13th July, 1897, Art. 559 (not published).

## LAW No. 3, 1897.†

REGULATING THE MARRIAGES OF COLOURED PERSONS WITHIN  
THE SOUTH AFRICAN REPUBLIC.

(Approved by Resolution of the Hon. First Volksraad, Articles 530 and 532, dated 9th July, 1897.)

Whereas the people allows the dissemination of the Gospel among coloured persons, and it was provided by Law No. 3, 1871, that the marriages of coloured persons should be regulated by law, and whereas the people will not tolerate any equalisation either in Church or State; and whereas there are coloured persons who by education and civilization distinguish themselves from the barbarians, and who therefore desire to live in a Christian and civilized manner and accordingly wish to be lawfully united in marriage, be it hereby enacted as follows:—

1. Male and female coloured persons who have reached a marriageable age may contract a lawful marriage with each other.

Lawful marriage between coloured persons allowed.

2.‡ Every coloured person who wishes to contract a marriage as above must make an application to that effect to a person or persons to be appointed for that purpose by the Government. He must submit therewith a certificate from their parents, or, where there are no parents alive, from their guardians, or from his captain or other native chief, that according to law there is no obstacle to the proposed marriage, or, if they are Christians, from the minister of their church.

What is required for the contracting of such marriage.

Coloured persons coming from beyond the limits of this State and wishing to enter upon marriage here will have to show to the satisfaction of abovementioned person, by means of a certificate or sufficient evidence, that there is no obstacle according to law to the proposed marriage.

Provisions as to coloured persons coming from beyond the limits of the State.

3. When the parties who wish to enter upon marriage live in different districts, it is left to them to elect in which of the two districts they wish to have their marriage solemnized.

Provision if parties live in different districts.

To the person mentioned in article *two*, who shall then solemnize the marriage, shall be submitted a certificate from his fellow-official of the district where the other party lives that, by virtue of a certificate handed in to him, as mentioned in article *two*, he finds no obstacle (*bij hem geen bezwaar bestaat*) to the proposed marriage.

† As to legalisation of certain native marriages, see Tr. Pr. No. 31, 1902; Ord. No. 29, 1903, and Ord. No. 33, 1905.

‡ Native Commissioners and Sub-Commissioners appointed marriage officers by Ord. No. 3, 1902, section *five*, as also Resident Justices of the Peace by Ord. No. 19, 1904, section *ten*.

The person mentioned in article *two*, who has solemnized the marriage, shall give notice of the same by sending a certified copy from his register to his said fellow-official.

Obligation of marriage officer.

4. Before solemnizing a marriage between coloured persons, the person mentioned in article *two* shall satisfy himself that the man has complied with the different laws in force in this State with reference to natives (as the pass law, etc.)

Similarly he shall, if the woman has been already married, satisfy himself that 300 days have already elapsed since the dissolution of the previous marriage.

Solemnization of marriage; duty of marriage officer.

5. Before the solemnization of the marriage the person mentioned in article *two* shall clearly and emphatically expound and explain to the parties the moral and legal significance and value of the marriage, and after they have declared to have understood him clearly, shall direct the following questions to each separately:—

“Do you, A B, solemnly declare that, as far as you know, there is no hindrance whatever to your proposed marriage with C D here present, and that you call all present to witness that you recognise C D as your lawful wife (or husband)?”

Thereupon the parties shall give each other the right hand, and the person mentioned in article *two* shall declare the marriage completed in the following words:—

“I declare that A B and C D here present are in the eye of the law lawfully united in the married state.”

Minister may solemnize marriage on production of certificate.

6. Every minister of coloured persons to whom is specially granted by the Government the right to solemnize marriages under this law may do so on production of a certificate of the person mentioned in article *two*, that the provisions of this law have been complied with.

Obligations of such marriage officer.

At the solemnization of such marriage the minister may follow the formulary in use in his Church.

He shall, within eight days after the solemnization of such marriage, give notice of the same by means of a certified copy from his register to the person mentioned in article *two* in the district where the marriage has been solemnized.

Penalty for acting in conflict with this article.

Every person who solemnizes a marriage in conflict with this article, or does not act in accordance with the directions given in the preceding paragraph, shall be punished with a fine not exceeding £50, or with imprisonment with hard labour not exceeding six months.

When and where marriage may be solemnized.

7. The solemnization of the marriage shall take place between eight o'clock in the morning and four o'clock in the afternoon at a place which the person mentioned in article *two* or the minister shall consider suitable for that purpose, and in presence of at least two male witnesses above the age of sixteen years.

Consecration in church.

8. Coloured persons who wish to have a marriage consecrated by the Church may, if the parties or one of them belong to a Christian or other communion recognized by this State, on a certificate of the person mentioned in article *two*

to the effect that the requirements specified in article *five* have been complied with, have such marriage consecrated by the Church by any minister authorised thereto by the Government according to the usage and rites of the Church concerned as mentioned in article *six*.

9. No coloured person may be compelled by any judicial sentence or order for any reason whatever to contract a marriage. May not be compelled to marry.

10.\* A marriage which has been solemnized in accordance with the provisions of this law may be dissolved by divorce on the grounds and with observance of the provisions laid down with reference thereto by the general law. Divorce is in accordance with general law.

*The suit for such divorce shall be brought in the same Court and in the same manner as if the parties thereto had been white persons.*

*The Registrar of the Court shall give notice of each divorce pronounced by such Court by sending a certified copy of the sentence to the person by whom or in whose district the marriage was celebrated.*

11. The coloured person who contracts a marriage before a previous marriage entered into by him has been dissolved, shall be punished by imprisonment with hard labour not exceeding five years. Penalties for bigamy.

12. The person mentioned in article *two* or any minister who unites any coloured person in marriage knowing that a marriage previously entered into by that coloured person has not yet been dissolved, shall be punished by imprisonment with hard labour not exceeding three years. Penalty for marriage officer who celebrates a bigamous marriage.

13. Every person mentioned in article *two* shall keep a register in duplicate in which he enters Registers to be kept by marriage officers.  
 (a) the marriages of coloured persons solemnized by himself and those brought to his notice in accordance with articles *three* and *six* by any of his fellow-officials or by any minister authorised thereto by the Government;  
 † (b) *divorces between coloured persons pronounced by a competent court which have been notified to him in accordance with article ten.*

He shall preserve the original register in his office and forward the duplicate every year before the 15th January to the *Registrar-General*.‡ Where registers to be kept.

When parties so desire he shall be obliged to issue to them gratis a certified copy from his register. Other persons may demand similar copies from the register, in which case the copy shall be provided with a stamp to the amount of 2s. 6d., to be paid by the applicant. Copies of registers.

The form of the register and certificates are determined by the *Registrar-General*.‡ Form of register and certificate.

\* As amended by Trans. Proc. No. 25, 1902, Section 1, and paragraphs in italics substituted.

† Sub-section (b) substituted by Trans. Proc. No. 25, 1902, Section 2.

‡ As amended by Ordinance No. 19, 1906, Section 35.

14. *Repealed by Ordinance No. 39, 1904, section three, and new provision made.*

Law No. 3,  
1871, and  
general law to  
apply.

15. In so far as no provision is made by this law, the provisions of Law No. 3, 1871, and of the general law, shall apply as far as possible according to circumstances.

16. *Repealed by Tr. Pr. 28 of 1902, section one hundred and thirty-six.*

17. *Repealed by Tr. Pr. 28 of 1902, section one hundred and thirty-six.*

18. § *The term "coloured person" in this law shall include any person who is manifestly a coloured person, and whose marriage on that account cannot be solemnized under the provisions of Law No. 3 of 1871.*

Operation.

19. This law comes into operation on 1st January, 1898.

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§ This article substituted by Ordinance No. 39, 1904, Section 1.

## LAW No. 7, 1897.

## AMENDMENT OF LAW No. 9, 1891.

(Approved by the Hon. First Volksraad by its Resolutions of  
3rd August, 1897, Article 762.)

1. Amended article *four*. For text see *Law No. 9, 1891, article four (Survey Law)*.

2. Amended article *seven*. For text see *Law No. 9, 1891, article seven*.

3. Amended article *twenty-two*. For text see *Law No. 9, 1891, article twenty-two*.

4. This law comes into operation immediately after publication in the *Staatskoerant*. ||

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|| Published in *Staatskoerant* of 11th August, 1897.

## LAW No. 8, 1897.

## RELATING TO THE USE OF MAIN OR TRANSPORT ROADS.

(Approved by the Hon. Second Volksraad by Article 829 of its Minutes dated 30th July, 1897, and accepted as notice by the Hon. First Volksraad, Article 896, of its Minutes, dated 23rd August, 1897.)

Whereas it has appeared desirable to make regulations and provisions for the use of the recognised main or transport roads, whether constructed by the Government or by District Councils; and

Whereas it has appeared necessary to put an end to the causing of damage to such main or transport roads and bridges, and to the manner in which the same are used, and to ensure to a greater extent the safety of persons and goods passing over such roads and bridges, it is hereby provided and enacted as follows:—

1. Wagons which pass over roads and bridges may not be loaded more heavily than to a weight of 8,000 lbs., unless the freight consists of one piece which cannot be divided. Locomobiles, locomotives, and other steam engines may not be propelled by steam along the main or transport roads unless special permission to that effect has been obtained from the road inspector or District Council concerned. Traffic by means of sledges along the main or transport roads is prohibited.

2. The special permission, as mentioned in article *one*, shall first be submitted to the approval of the Chief Inspector of Roads in so far as it concerns Government roads.

3. Spanning out, camping out, or making fires on main or transport roads is prohibited.

4. In ascending or descending a mountain road, or entering or leaving a drift or any other place on the road, the use of stones or other loose objects is permitted in order to hold the wagon up, provided the stones or other objects are immediately removed by the person using same.

5. If a wagon sticks and a hole has to be dug in the made road, the owner or driver is obliged, immediately after the wagon has been extricated, to fill up the hole in the road properly and firmly and to level same.

6. Where the road runs along the slopes of mountains a descending wagon when passing another shall keep the bank-side, while on level ground and also at the slopes at drifts and slopes with straight descent, the wagons shall always

Maximum freight of wagons passing over roads and bridges. Provisions as to locomobiles, locomotives, etc. Traffic by means of sledges prohibited.

Permission as to Government roads.

What forbidden on main or transport roads.

Use of stones to hold up a wagon in ascending or descending a mountain road.

Duty of driver if a wagon sticks.

Provision for the passing of wagons.

keep to the left. When ox-wagons are passing each other, or when ox-wagons are passing other vehicles, in each case the ox-wagons shall have a leader.

7. Using any brake in passing over an iron bridge is prohibited.

When use of brake prohibited.

8. If an animal should die on or near the road, the owner or driver is obliged to have the same dragged to a distance of at least 50 yards from the side of the road unless the road is fenced in with wire, and in that case to a distance of 2 yards from the wire. In case the animal has died of a contagious disease he is obliged to bury the same according to law and fill up the holes in such a manner that they can be ridden over without danger.

Duty of owner or driver if animal dies on or near the road.

9. When a person desires to construct a water-furrow or other works over or through a main or transport road, this shall have to be done in consultation with an official competent thereto. If the person cannot come to an agreement with such official he may apply to the Head of Public Works.

Provisions for constructing a water-furrow, etc., over or through a road.

10. Every person who contravenes the above regulations and provisions shall be punished by a fine not exceeding £15, and on non-payment, with imprisonment with or without hard labour not exceeding thirty days. If the offenders are coloured persons they may be punished with lashes not exceeding fifteen.

Penalty for contravening these provisions.

11. All cases concerning a contravention herein referred to shall be summarily dealt with by the Court.

Summary treatment of cases.

12. Landdrosts, other officials with similar jurisdiction, and all justices of the peace have jurisdiction in all cases of contravention of this law.

Jurisdiction.

13. This law comes into operation on the 1st January, 1898.

Operation.

## LAW No. 10, 1897.

## AMENDMENT OF LAW No. 7, 1891.—RECOVERY OF PETTY DEBTS..

(Approved after amendment by the Hon. Second Volksraad by Article 871 of its Resolutions dated 9th August, 1897, and accepted as notice by Resolution of the Hon. First Volksraad, Article 951, dated 26th August, 1897.)

Whereas it is desirable to make better provisions for the recovering of petty debts, it is hereby enacted and provided as follows:—

Application for citation against debtor if claim does not exceed £15.

1. Any person who has, or conceives himself to have, a claim or demand not exceeding the sum of £15 against a debtor, shall have the right, whether this debt is of a liquid or illiquid nature, to apply to the Registrar of the Court of the Landdrost or other judicial official having a jurisdiction not exceeding that of a Landdrost under whose jurisdiction the debtor resides, or to that official himself.

Stamp on and issue of citation.

This official shall receive the claim, and immediately after payment of a stamp of ten shillings, issue a citation to the alleged debtor as much as possible in the following form:—

Form of citation.

To A B, residing at  
Whereas A has laid a complaint against you in this Court, and alleges that you are indebted to him in the sum of arising from  
you are hereby called upon to pay said amount within seventy-two (72) hours after service hereof, that is at the latest at o'clock on the day of the month  
189 , at my office, in default whereof a writ of execution will be issued against you by this Court.

Copy of promissory notes or accounts attached hereto.  
Given under my hand this day of the month 189

Signature of the official.

Affixing and cancellation of stamp.

2. The stamp of ten shillings mentioned in article *one* shall be affixed to the citation and perforated by the official referred to in article *one*.

Service of citation. Procedure if no defence made.

3. Such citation shall be served by the Messenger of the Court or his substitute on the alleged debtor, in person, and if no defence written, or verbal, is lodged by the latter within seventy-two hours after the service of the citation, the judicial official shall immediately pronounce final sentence against the debtor.

Procedure if defence made.

In case however any defence, either verbal or written, is made on the return day (*ten dienende ure*), the judicial official shall be bound forthwith to institute an enquiry whether such defence is wellfounded or not.

If he finds that such defence is unfounded, he shall immediately give judgment against the defendant. If he finds that the defence is wellfounded he shall have the right to grant a postponement at the request of one or more of the parties, in order to afford parties an opportunity to produce their evidence, and he shall fix the day when the case shall be tried.

If defence unfounded.  
If defence wellfounded.

After the granting of judgment by the judicial official aforesaid, the latter shall, either of his own motion, or at request of the Registrar or the creditor, immediately issue a writ for the execution of said judgment.

Writ of execution to be immediately issued.

No further costs may be charged than the said ten shillings (10s.) stamp, costs of service of citation, and the costs of execution.

Costs of the procedure.

4. If any person against whom a writ of execution has been issued for any debt informs the official charged with the execution of such writ that he possesses no property or not sufficient to cover the demand made, together with the costs, and if it should be proved that such debtor does possess property, whether sufficient to satisfy the said demand or not, and has hidden, or on enquiry by the said official mentioned, has concealed the same, he shall be punished by a fine not exceeding £50 sterling, or on default of payment, imprisonment with or without hard labour not exceeding six (6) months.

Penalty for debtor who makes false returns to the officer of the Court.

5. The Registrar shall note the payments made by the debtor in the record (rolboek), and shall account for the same to the creditor.

Registrar to keep note of payments and to account to creditor.

6. This amended law comes into operation immediately after publication in the *Staatskoerant*.\*

Operation.

\* Published in *Staatskoerant* of 1st September, 1897.

## FIRST VOLKSRAAD RESOLUTION, 27th July, 1897.

Auctions on  
markets of  
goods con-  
veyed  
from outside  
the towns to  
be held before  
others.

Art. 699.† The First Volksraad having considered the motion A. Wolmarans-Du Toit, now on the order;

Resolves to instruct the Hon. Government to immediately carry into execution the first portion of the motion.

The first portion of said motion reads:—

(a) That the auctions on the markets outside the market-house of those goods which have been conveyed from outside the towns per wagon and oxen, or otherwise, shall take place before putting up to auction those goods which have been placed on the open markets and which come from the towns, from the produce shops, etc., and to supervise the strict carrying out the Market Law.

SECOND VOLKSRAAD RESOLUTION, 14th July, 1897,  
Article 679.

(Accepted as notice by First Volksraad Resolution, 3rd August, 1897, Article 756.)

Cancellation  
of prospecting  
grants, Zout-  
pansberg.

The Second Volksraad dealing with the report of the Head of Mines, namely, section III of same, Grants, taking into consideration that the giving of preferent rights for prospecting to persons on grounds in Zoutpansberg whose period of grant has expired, might give rise to confusion, and that the Government has fully complied with its obligations as against the holders of those grants;

Resolves not to be able to agree with the contents of item 2, section III of said report, but that item 1 shall be maintained.

Said item 1 reads:—

By Minute R. 6492/93, the Executive Council has taken a resolution whereby all grants for prospecting in Zoutpansberg were cancelled.

## FIRST VOLKSRAAD RESOLUTION, 5th August, 1897.

Title-deeds of  
erven Piet-  
potgietersrust  
to be issued  
directly to  
lawful  
possessors.

Art. 799.‡ The proposal J. P. Meyer-Malan was accepted.

Said proposal was to confirm the report of the Petition Commission.

Said report reads:—

The Commission recommends to your Assembly with reference to this petition to authorise the Hon. Government, if within three months after notice in the *Staatskoerant* application is made therefor, to issue afresh title-deeds of erven at Pietpotgietersrust directly to the persons who are in the lawful possession of those erven, irrespective of through how many hands these erven have passed.

† See Law No. 8 of 1888.

‡ Published in *Staatskoerant*, 22nd September, 1897; see V.R.R., 12th May, 1888, Art. 71 (*supra*).

## FIRST VOLKSRAAD RESOLUTION, 6th August, 1897.

Art. 804. § The First Volksraad having considered the petitions from Amersfoort and the report of the Petition Commission now on the order;

Resolves to approve of the report of the Petition Commission.

Said report reads:—

The Commission, taking into consideration that besides the Church district congregations also other Church congregations have already existed for a long time in different districts, some already for about thirty years, recommends to your Assembly with reference to these petitions that if in a district another congregation or consulent congregation of the three Dutch Church communities exists besides the district congregation, which congregation has been established before the passing of First Volksraad Resolution, article *one thousand two hundred and twelve*, dated 17th August, 1896, to authorise the Government on application to that effect, also to grant ground to such congregations for ecclesiastical purposes as provided for district congregations by said First Volksraad Resolution.

Grant of ground to congregations of Dutch churches other than district congregations.

## FIRST VOLKSRAAD RESOLUTION, 26th August, 1897.

Art. 955. The First Volksraad having considered the petition from Mapoch's grounds *re* Government lots, and Executive Council Resolution, article *six hundred and forty-two*, dated 21st November, 1893, in connection therewith, now on the order;

Resolves to instruct the Hon. Government with reference\* to said petition to let the Government lots in the Mapoch's grounds under the regulations|| for the letting of Government grounds of 1896, provided that preference shall be given to the persons as referred to in the petition.

Instructions *re* letting of Government lots in Mapoch's grounds.

## FIRST VOLKSRAAD RESOLUTION, 27th August, 1897.

Art. 983. The First Volksraad having considered the Commission's report, with petitions, requesting that no goods trains should be allowed on Sundays;

Resolves to agree in so far with the Commission report as to refer the same to the Hon. Government with the petitions to make provisions if possible which provide herein.

Goods trains not to run on Sundays, if possible.

§ Published in *Staatskoerant*, 22nd September, 1897.

|| See F.V.R.R., 4th December, 1896, Art. 2237 (*supra*).

SECOND VOLKSRAAD RESOLUTION, 22nd September,  
1897, Article 1219.¶

(Accepted as notice by First Volksraad Resolution, 12th  
October, 1897, Article 1490.)

The Second Volksraad having considered the Commission Report, in pursuance of resolution of the Hon. Second Volksraad, article *seven hundred and twenty-three*, dated 19th July, 1897, and further instructions as contained in Resolution, article *nine hundred and thirty*, dated 19th August, 1897, *re* titles of homesteads (werven) of proclaimed farms, approved and secured between the years 1885 and 1891, now on the order;

Title to  
werven.

Resolves: 1. The homesteads (werven) approved by the Government which have been properly surveyed and reduced to diagram are and shall be hereby declared indisputable in so far as no issues at law (rechts kwesties) have been called into existence.

2. To accept the Commission report as notice, and to instruct the Hon. Government to act during the recess of the Hon. Second Volksraad in terms of said Commission report.

The report of the Commission recommends:—

1. That the homesteads (werven) which have been approved by the Government, and which have been duly surveyed and reduced to diagram, be declared indisputable.

2. To instruct the Government to give such instructions during the recess of the Hon. the Second Volksraad that all existing homesteads (werven) of proclaimed farms should be reduced to diagram, approved and published so that then no possibility may exist for any dispute.

FIRST VOLKSRAAD RESOLUTION, 14th October, 1897.

Coloured  
persons not to  
travel  
together with  
white persons  
in trains.

Art. 1522. The First Volksraad having considered the paragraph now on the order;

Having considered the information obtained that at present coloured persons when they take out first class tickets take seat in that class, thus in carriages intended for whites;

Considering that the Volksraad wishes to see the provisions concerning separate carriages for coloured persons most strictly maintained;

Resolves to accept the paragraph as notice, but further to instruct the Hon. Government in order to avoid equalisation to cause strict measures to be taken in the trains; also that no infringement be made on the abovementioned provisions, and to enter into negotiations by means of the Government Commissioner with the Netherlands South African Railway Company and other railway companies in the Republic to partition off a small place in every carriage for coloured persons who have taken out a first class ticket.

¶ Published in *Staatskoerant*, 27th October, 1897; see S.V.R.R., 1st July, 1898, Art. 664 (*infra*).

SECOND VOLKSRAAD RESOLUTION, 6th October, 1897,  
Article 1402.†

(Accepted as notice by First Volksraad Resolution, 22nd  
October, 1897, Art. 1595.)

The Second Volksraad, dealing with the report of the Commission *re* change of claims into stands, now on the order; Change of claims into stands.

Resolves to instruct and authorise the Hon. Government where it may appear necessary, if consent has been given by the registered owner of private proclaimed grounds, and where such may appear necessary in the general interest, and for the laying out of stands townships to change claims into stands townships. To further instruct the Government as soon as an agreement has been arrived at with owner or owners mentioned, to conclude contracts in the usual manner, and to lay the same before the Raad for approval or disapproval.

FIRST VOLKSRAAD RESOLUTION, 11th November, 1897.

Art. 1702.‡ The First Volksraad having considered item 5 of section VIII, "Railways," of the Commission report\* now on the order;

Resolves to approve of item 5 with this proviso that that authority given to the Executive Council shall only extend to the construction of side branches from the main line to the gold mines and batteries on the Witwatersrand Goldfields, and under condition that the construction of those lines shall take place entirely at the risk of applicants. Railway sidings, Witwatersrand Goldfields.

Said item 5 of the report reads:—

As regards the construction of branch lines with steam power from the railway to the mines, the Commission is of opinion that such is necessary in the interest of the mining industry itself, and it therefore recommends your Assembly to grant the authority to the Hon. the Executive Council to consent to the construction of branch lines, also with steam power, from the railway to the batteries for the conveyance of coal and other mining material, all previous provisions in conflict with this proposal being amended by the approval hereof.

† Change of claims into stands forbidden by Law No. 15, 1898, Art. 96.

‡ See F.V.R.R. 29th November, 1898, Art. 1855 (*infra*); F.V.R.R., 5th July, 1899, Art. 417 (*infra*).

\* Report of the Industrial Commission of Inquiry. See Minutes of First Volksraad, 1897, p. 821.

## 1898.

## PROTOCOL.\*

Preamble.

Whereas difficulties have arisen in carrying out article *two* of the Convention between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and the Government of the South African Republic dealing with the affairs of Swaziland, signed on the 10th day of December, 1894, and particularly with regard to the extent of the jurisdiction of the courts established in Swaziland under that Convention, in the case of crimes committed by natives against natives, in view of the provisions of the said article as to the powers of the Paramount Chief, the maintenance of native laws and customs, and the administration of such laws and customs by native chiefs;

And whereas it is desirable to make further provision for the jurisdiction of the said courts, more especially with a view to preventing practices inconsistent with civilised laws and customs;

Now therefore it is agreed between Her Majesty's High Commissioner for South Africa, on behalf of Her Majesty, and His Honour the State President of the South African Republic, on behalf of the Government of that Republic, as follows:—

Jurisdiction  
of Swaziland  
courts.

1. Notwithstanding anything contained in the second article of the said Convention, the courts mentioned in the second clause of the present Protocol shall alone be competent to deal with crimes committed by natives falling under any of the categories specified in the Schedule appended hereto, and such jurisdiction shall extend to all natives, including the Paramount Chief and the other chiefs. And neither the Paramount Chief nor any other native chief shall be competent to exercise jurisdiction in regard to any such crime.

Landdrost's  
court and  
High Court of  
Swaziland.

2. The courts by which alone the jurisdiction described in the foregoing clause shall be exercised are the Landdrost's Court of Swaziland, as at present established, and the High Court of Swaziland.

Jurisdiction  
of landdrost's  
court.

3. The Landdrost's Court shall only have power to impose such sentences upon natives, in cases where natives only are concerned, as the said court is empowered to impose in its jurisdiction over Europeans.

Defence by  
agents,  
attorneys,  
and counsel.

4. Any native accused before the Landdrost's Court shall be entitled to be defended either by a law-agent, by an attorney, or by counsel; and, before the High Court, by counsel.

In case of the accused being an indigent native, and unable to provide such professional assistance, the Court shall appoint such law-agent, attorney, or counsel for his defence.

\* Published under Government Notice No. 525, 1898.

5. Subject to the foregoing provisions, the Paramount Chief and other native chiefs shall continue to exercise jurisdiction in all native cases, including both civil disputes between native and native, and all crimes committed by natives against natives which do not fall within any of the categories specified in the said Schedule. But no native chief shall be competent to inflict the punishment of death or any barbarous punishment inconsistent with civilised usage.

Jurisdiction of paramount and other chiefs in civil disputes between natives.

6. The provisions of this Protocol shall not apply to any crime committed previous to its signature.

7. This Protocol will be ratified by the Volksraad\* of the South African Republic, within one month of its signature, and in default of such ratification, will be null and void.

Ratification.

*Schedule of Crimes.*

- (a) Murder; manslaughter; culpable homicide.
- (b) Conspiracy against the Paramount Chief, or resistance to his authority as recognized in the Convention of 10th December, 1894, or in the present Protocol.
- (c) Assault with intent to do grievous bodily harm.
- (d) Rape, or attempted rape.
- (e) Kidnapping or abduction of children.
- (f) Forgery.
- (g) Perjury.
- (h) Arson, and malicious destruction of property of a grave nature, such as cattle-raiding, the wholesale destruction of cattle, or the destruction of a dwelling-place.
- (i) Robbery.
- (j) Witchcraft.

Schedule of crimes.

In witness whereof, Alexander Edmund Fraser, acting as Her Majesty's Agent in the South African Republic, duly authorized thereto on behalf of Her Majesty's High Commissioner for South Africa, and Francis William Reitz, State Secretary of the South African Republic, duly authorized thereto on behalf of the State President of the said Republic, have signed this Protocol, at Pretoria, on the fifth day of October, in the year 1898, and have hereunto set their seals.

(L.S.) EDMUND FRASER.

(L.S.) F. W. REITZ.

\* Ratified by F.V.R.R., 6th October, 1898, Art. 1388.

## LAW No. 3, 1898.

(Approved by Articles 381 and 382 of the Minutes of the Hon. First Volksraad, dated 6th June, 1898.)

Whereas it is deemed necessary to make provisions with regard to the competency of native chiefs to enter into obligations, it is hereby enacted as follows :—

1. The people or tribe of a native chief can never be held responsible for the personal obligations of the latter.

2. No native chief can enter into any obligation of whatsoever nature by which either his people or tribe, or the ground granted to him as a location, shall be bound in any way whatever.

3. No obligation or contract as above mentioned entered into by coloured persons or their chiefs, shall be of force unless approved of by the Executive Council acting in consultation with the Superintendent of Native Affairs.

4. This law comes into operation immediately after publication in the *Staatskoerant*. §

Contract of chief not binding on tribe.

Approval of Executive Council essential.

LAW No. 6, 1898.

BEING AMENDMENT OF LAW No. 29, 1896.

(Approved by the Hon. First Volksraad by Article 623 of the Minutes dated 24th June, 1898.)

Whereas it has appeared to be desirable to introduce certain amendments in Law No. 29, 1896, it is enacted as follows:—

1. As article *three (a)* is added: *For text see Law No. 29, 1896, article three (a) (Adulteration of Foodstuffs).*
2. At the end of article *six* is to be added:—  
“Or the removal of any original constituent from any substance whereby the quality is reduced.”
3. This amendment of law comes into operation immediately after publication in the *Staatskoerant*.†

Amendment  
of Adultera-  
tion of  
Foodstuffs  
Law of 1896

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† Published in *Staatskoerant* of 6th July, 1898.

*Repealed by  
act 37 of 1923*

LAW No. 8, 1898.

FOR THE REGULATION OF THE BUSINESS OF ASSURANCE COMPANIES IN THE SOUTH AFRICAN REPUBLIC.

(Approved by Resolution of the Hon. Second Volksraad, Article 472, dated 16th June, 1898, and accepted as notice by the Hon. First Volksraad under Article 707, dated 4th July, 1898.)

Whereas it is necessary and advisable to regulate by a law the manner in which, and the conditions upon which, assurance companies shall be allowed to carry on business in this State, it is hereby enacted as follows:—

Provisions as to securities by assurance companies.

1.‡ Every assurance company whose principal office or place of business is situated beyond the limits of this State, and every company established in this State, whether already established or carrying on business or hereafter to be established and to commence business within this State, which is managed or represented by directors, a secretary, manager, or agent, and which has carried on business before the coming into operation of this law, or hereafter shall commence to carry on business within this State, such as fire, accident, or life assurance company, if such a company, after the coming into operation of this law, shall continue or commence such business in this State, shall be bound to deposit within three months after such continuation or commencement of such business with the Treasurer-General of this State, securities, either in cash or other securities approved of by the Treasurer-General, Auditor-General, and Registrar of Deeds, and such to an amount of £5,000 sterling for fire or accident assurance, or for both together, and of £10,000 sterling for life assurance, whether associated or not associated with fire or accident assurance, or with both.

Exchange of securities.

2. Every such company may, after proper notice to the Treasurer-General, Auditor-General, and Registrar of Deeds, with the approval of those officials, exchange any of the deposited securities for others of equal value, or for cash, and such substituted securities shall be dealt with in every respect as if they had been deposited originally.

Interest on securities.

3. Every company which so deposits the aforesaid sums in cash as security shall be entitled to receive from the Government interest at the rate of 3 per cent. per annum on the sums deposited, payable at the end of each year.

Receipt.

4. The Treasurer-General shall give proper receipt in accordance with the forms hereunto annexed, marked A and B, for the securities deposited as mentioned in article one.

Licence.

5. Every such company shall be bound, before it shall be able to carry on business, to take out an annual licence of £20 sterling, and no such licence shall be issued until proof

‡ Societies carrying on business exclusively for their own members are exempted from giving security; see Act No. 17, 1908, section 26, and extended by Act No. 21, 1909, section 6.

has been given to the official charged with the issue of such licence that the security mentioned in article *one* of this law has been deposited.

6. Every such company shall be bound, before it shall be able to obtain such licence, to deposit certified copies of its articles of association (statuten) with the exception of companies to be established here under the already existing laws, and shall further be bound to choose *domicilium citandi et executandi* in this State and to give notice thereof in the *Staatskoerant*.

Deposit of articles of association.

7. Every assurance company as aforesaid shall, after each financial year of such company, forward to the Treasurer-General, together with all other returns which may be required by this law, a sworn return showing the total amount of assurances in force, the total amount of new assurances effected, with the premiums received with reference thereto during the year, and policies which have lapsed during the said year, all having reference only to the business of the company carried on in this Republic; and shall further be bound to forward to the Treasurer-General a certified return showing the assets and liabilities of such company, together with copies of the balance-sheet and revenue account for the year, all having reference to the entire business of the company, no matter where carried on.

Annual returns to be forwarded to the Treasurer-General.

8. Every company which does assurance business within this State shall, within three months after the coming into operation of this law, or after starting its business, or when a change is made in its personnel, as the case may be, publish in the *Staatskoerant* the name of its chief official, manager, secretary, or agent in this State, and the place where the head office of the company must be considered to be fixed where also the *domicilium citandi et executandi* of such company shall be established.

Names of officials of company to be published in *Staatskoerant*.

Head office. *Domicilium*.

9. Every such head official, manager, secretary, or agent whose appointment as aforesaid has been published in the *Staatskoerant*, may sue or be sued in the name of the company which he represents, and all notices, summonses, or other legal proceedings shall be valid against such company if the same are served on such head official, manager, secretary, or agent, or are left at the head office in the hands of any servant of the company there, or if, in the absence of such a person, the same are attached to the front door of such head office.

Who may sue or be sued.

10. If any document, which under the provisions of this law is required to be deposited, is false in any important particular, the person who signed or delivered the same shall be punished with a fine not exceeding £100, or imprisonment with or without hard labour not exceeding six months.

Deposit of false document.

Penalty.

11. Any company which fails to deliver any returns required by this law for a period of three months or more, may, at the request of the State Attorney and after notice,

Failure to make returns.

be prohibited by the High Court from carrying on business in this State either for an indefinite period or for such period as the Court may deem fit to determine.

Duty of  
Treasurer-  
General.

12. The Treasurer-General shall see, and it shall be the duty of that head official so to do, that every company falling under the operation of this law properly complies with the provisions thereof, and he shall be bound to deliver annually to the Government a report setting out the particulars of the business of every such company in accordance with the returns lodged under the law.

Report.

Policies of life  
assurance, to  
whom  
payable.

13. All claims arising out of policies of life assurance issued in this State shall be paid, if such payment is desired, to the person in this State entitled to the assurance moneys and the receipt of the executor or other person charged with the administration of the estate in question shall be complete proof that such company has duly paid the amount of the policy.

Security to  
operate as  
guarantee.

14. The security under article *one* of this law shall operate as a guarantee to the Government and the inhabitants of this State of the good faith of and the honest transaction of business by every such company, and such security may be taken in execution for any judgment of any competent Court against such company.

Closing of  
business by  
company.

If an assurance company, mentioned in article *one* of this law, desires to close its business within this State and to do no further business here, and has actually closed its place of business and has ceased to do business, it shall be entitled to get back the security mentioned in the said article, provided a sufficient portion thereof be left to satisfy all its obligations and debts to persons within this State, and any probable expenses connected with such amounts due or to become due, everything to be determined by the Treasurer-General at his discretion. If payments are made from time to time to creditors and policy holders within this State by the company, the Treasurer-General shall be entitled to reduce and to return the deposited security proportionately, provided he takes care that sufficient security remains for the claims of the still remaining creditors and policy holders within the State. In carrying out this provision the Treasurer-General shall be entitled, before giving back the security or any part thereof, to demand affidavits from the officials and inspection of the books of the company or such other proof as he may consider necessary.

Return of  
security.

Proportionate  
reduction of  
security.

Treasurer-  
General may  
demand proof  
from officials  
of company.

What condi-  
tions may not  
be inserted in  
policy.

15. No such company may include in any policy still to be issued in this State any condition which may conflict with the provisions of the military or commando law, and such condition shall in no case be of force, nor may it be pleaded against the payment of such policy if the person assured dies in military or commando service.

‡ The word "en" is used in the text, but is clearly an error; in the draft law, which was confirmed, the word "van" is given.

16. If any agent, director, secretary, manager, or representative of one of the hereinmentioned assurance companies contravenes or does not comply with one or more of the provisions of this law, he may on that ground be liable to a fine not exceeding £100 sterling or to imprisonment with or without hard labour, not exceeding six months, together or separately.

Contravention of law by officials of company.

17. The Courts of Landdrosts and Mining Commissioners shall have jurisdiction over contraventions with the exception of those mentioned in article *eleven*.

Jurisdiction.

18. Law No. 12, 1892, for the regulation of the business of assurance companies in the South African Republic, and also Law No. 4, 1896, amending article *seven* of Law No. 12, 1892, are hereby repealed.

Repeal.

19. This law shall come into operation immediately after publication in the *Staatskoerant*.

Operation.

*Receipt Form "A."*

Received from the \_\_\_\_\_ through  
 Mr. \_\_\_\_\_ the sum of \_\_\_\_\_ pounds  
 sterling, being the security deposit mentioned in article *one*  
 of Law \_\_\_\_\_, 1898, which amount the Government of the South  
 African Republic hereby declares to have received from the  
 \_\_\_\_\_ for safe keeping, and  
 promises to pay back to the said company at this office three  
 months after written notice has been given by it to the  
 Government of the South African Republic that it wishes to  
 close its business in this State, and has clearly proved to the  
 satisfaction of the Government that it has no further current  
 obligations towards third parties resident within this State.

The interest on the amount aforesaid shall be 3 per cent.  
 payable yearly by the Treasurer-General at his office to the  
 authorised agent of the assurance company on or before 1st  
 February of each year.

The assurance company has similarly the right, after  
 giving three months' notice, to exchange this security deposit  
 in cash for a security deposit in documents approved of by  
 the Government on receiving a receipt according to Form  
 "B," in accordance with the provisions contained in article  
*two* of this law.

Pretoria, \_\_\_\_\_ 18 .

*Receipt Form "B."*

Received from the \_\_\_\_\_ through  
 Mr. \_\_\_\_\_ the following documents, viz.,  
 \_\_\_\_\_ being the security deposit  
 mentioned in article *one* of Law \_\_\_\_\_, 1898, which documents  
 the Government of the South African Republic hereby declares  
 that it holds in safe custody for the said assurance company,  
 and which it will return to the latter in exchange for other  
 documents of equal value to be approved of by the Government

or for cash, in case the assurance company so desires, or if the said company has given the Government of the Republic written notice that it wishes to close its business in this State, and has clearly proved to the satisfaction of the said Government that it has no further current obligations towards third persons resident within this State. The authorised agent of the assurance company is entitled to receive the interest on these abovementioned documents.

Pretoria,

18

## LAW No. 18, 1898.

## FOR THE REGULATION OF THE POSTAL AFFAIRS IN THE SOUTH AFRICAN REPUBLIC.

(Approved by the Hon. Second Volksraad by Article 1393 of its Minutes dated 18th October, 1898, and accepted as notice by the Hon. First Volksraad by Article 1567 of its Minutes dated 4th November, 1898.)

Whereas the necessity exists to proceed to a revision of the legislation on postal affairs, it is hereby provided and enacted as follows:—

1. No one but the State is competent to carry letters for hire (tegen genot van vracht), and no letter shall be carried in a vehicle used for the conveyance of passengers unless in a post bag or parcel thereby conveyed. The person who sends or conveys a letter otherwise than by the post, or who for hire shall take charge of same, shall, if found guilty, be subject to payment of a fine not exceeding ten pounds sterling for every such letter. Nothing in this article shall extend to

No one but State to carry letters for hire.

(a) the letters which are conveyed within the circle of a post office or post agent's office with the intention of being posted;

Exceptions.

(b) the letters concerning objects with which they are conveyed, or concerning proceedings or pleadings in a court of justice, declarations, or attestations;

(c) the letters which are conveyed simultaneously, coming from one sender or from persons belonging to one family, or in case only one letter is conveyed at a time; provided in both cases the conveyance takes place within the State, and the person who conveys the letters is not the contractor or the manager of the concern which is the means of conveyance by which the conveyance of letters is effected, or in the employ of that contractor or such concern.

2. The administration of the postal affairs for the whole State is entrusted to a Postmaster-General. He has the supervision over all post office officials and persons in the employ of the Postal Department, as also over post offices. He is charged with calling for tenders for the conveyance of the post; he is competent to give instructions concerning the manner in which the administration of the post establishments shall be conducted. He is charged with the correspondence with the postal administrations of other countries and States; and further with everything concerning the regulation of the postal affairs.

Administration of postal affairs entrusted to Postmaster-General.

Rights and duties.

3. The Postmaster-General shall annually send in to the Treasurer-General an estimate of probable revenue and expenditure of his department for the ensuing year of service, with an explanatory memorandum thereanent.

Estimate of revenue and expenditure.

Postmaster-General responsible to State President.

4. The Postmaster-General is responsible to the State President. He shall annually hand in to the State President a report on the work of his department, together with proposals for alterations or improvements relating to the administration of the postal affairs for consideration by the Hon. Second Volksraad.

Has access to all post offices.

5. The Postmaster-General has at all times access to all post offices, and the post office officials shall be bound to produce or forward their books and other documents for inspection if such is demanded by him.

Shall visit the various post offices.

6. The Postmaster-General shall if necessary visit the different post offices of the country in order to convince himself of the regular conveyance of the post and the good order of the post offices. He has the power to commission suitable persons to investigate if necessary the administration of a postal official and to report.

Decides disputes.

7. The Postmaster-General decides disputes arising between him and his subordinates in regard to the administration of the Postal Department, against which decision parties may appeal to the State President, whose decision shall be final.

Appoints and dismisses post agents.

8. The appointment and dismissal of post agents, and also the establishment of new post agencies, shall rest with the Postmaster-General as long as the amount provided in the estimates for that purpose is not exceeded. In this respect post agents are not considered as officials.

Payments to be approved by him.

9. No payments relating to the Postal Department shall be made by the Treasurer-General unless approved by the Postmaster-General or his lawful substitute.

Establishment of post offices.

10. At the principal place in each district, and also at such other places as shall be determined on by the Postmaster-General, with the approval of the State President, post offices shall be established, open to the public at such hours as shall be fixed by the Postmaster-General, save as to closing during the making up or sorting of mails.

Delivery of letters. Letter-boxes. Poste restante.

11. The Postmaster-General regulates the manner in which letters and other documents are delivered at those places where a delivery service is established, as also the placing of letters in private letter boxes at those offices where provision has been made for the purpose. Before delivering poste restante letters and other documents, the officials should if necessary, by production of some proof, satisfy themselves as far as possible as to the identity of the person applying.

General time-tables.

12. The Postmaster-General shall annually cause a general time-table to be published in the *Staatskoerant* stating the hours of arrival and departure of the different posts, and at the same time give notice therein of the alterations.

Postal conventions.

13. The Postmaster-General may, subject to the approval of the State President, enter into or amend postal arrangements or conventions with the competent authorities of foreign States and Colonies for the following purposes:—

- (a) The issue and payment of money orders, postal orders, and the payment of Post Office Savings Bank orders. Money and postal orders. Post Office Savings Bank.
- (b) The transmission to any place beyond this State of letters and other objects (stukken) free of postage or upon such terms as to the postage or dues payable thereon on delivery, and as to the application thereof according to agreement. Transmission of letters beyond limits of State.
- (c) The fixing and collecting of postage and other charges upon letters and other objects conveyed between this and any other State. Postage.
- (d) The division and mutual accounting for and payment of money collected or due under any agreement. Division of money.
- (e) For purposes as mentioned in sub-sections (c) and (d) in regard to letters and other objects transmitted or received through the agency of another State or Colony to or from any part of the world. Letters transmitted through another State.
- (f) The payment (in full or otherwise) of postage due on letters and parcels. Payment of postage.
14. As soon as any postal arrangement or convention shall have been made under the authority of this law the State President shall issue a proclamation fixing a time from which such arrangement or convention shall be of force. When convention to come into operation.
15. Copies of all conventions and agreements entered into between the Postmaster-General and the competent authorities of other States and Colonies, as also copies of all regulations or orders issued by the State President under the provisions of this law, shall be laid before the Volksraad in the first ensuing session. Copies of conventions to be laid before Volksraad.
16. In the interpretation of this law the expression "the State" shall include the territory under the administration of the Government of the South African Republic, and the words "post office" shall include all places intended for the receipt or delivery of letters, post cards, printed matter, parcels, and other documents under supervision of the Postmaster-General. Definition of "the State" and of "Post Office."
17. The stampmaster (zegelmeester) on request supplies the Postmaster-General with as many stamps and other means of franking as are required by him, and it is prohibited to supply same to any other person. Postmaster-General to be supplied with stamps by stampmaster.
18. The Postmaster-General shall see to it that at all post offices postage stamps and post cards are obtainable by any person on payment of the amount impressed thereon or fixed by the State President. The Postmaster-General shall have the right to authorise private persons to sell postage stamps. Supply and sale of postage stamps.
19. The stamps for the franking of documents shall be genuine, and not forged; and shall not belong to issues which have been declared to be out of circulation. Further, they may not have already been used once, and may not be defaced or obliterated, and may not be embossed, cut out or separated from the paper, card, or other material, upon which they were embossed or impressed. All current postage stamps or stamp What stamps to be used.

impressions on documents shall without distinction be rendered useless by means of the stamp at the office of transmission. The Government shall at the proposal of the Postmaster-General notify in the *Staatskoerant* when any issue (edition) of stamps will be withdrawn from circulation.

Use of used  
or forged  
postage  
stamps, etc.

State Attor-  
ney may  
open letters.

Inland  
postage.

Foreign and  
oversea  
postage.

Postage to be  
prepaid.

Free trans-  
mission of  
re-addressed  
letters, etc.

Insufficient  
postage.

Double  
postage.

Date stamp.

20. Letters, newspapers, and other documents provided with one or more postage stamps which have already been used once, or which have been forged, written upon, or in any way damaged, or which have been printed upon, shall be handed to the Postmaster-General, who shall hand them to the State Attorney, which official shall have the right by opening these letters and other documents to satisfy himself of the name and the address of the sender in order to deal with him in accordance with the provision appearing in article *ninety-five*.

21. The postage of every inland letter, post card, newspaper, parcel, and other object shall be respectively in accordance with Schedule "A" annexed.

22.\* The postage for foreign and oversea correspondence shall be regulated in conformity with the postal conventions made or to be entered into thereon, which have been or may be hereafter published in the *Staatskoerant*, but every letter, post card, parcel, or newspaper received by post from any place beyond the limits of this State shall be delivered within this State without further payment, except as shall hereafter be mentioned and except where it is necessary to collect the postage under an arrangement or convention which has already been entered into or may hereafter be entered into, in which case all moneys on such letter, post card, newspaper, or parcel may be demanded before the delivery of the same.

23. Except in those cases of which express mention is made in this law, the postage on all inland letters, parcels, newspapers, or packets shall be payable in advance by affixing postage stamps, in default of which double the ordinary postage payable thereon shall be collected on such letters and other objects. Every unstamped newspaper may be destroyed.

24. The transmission to their destination of all letters and other objects, except parcels, returned or sent to a different address within the State shall be free of postage, unless delivery has already taken place once.

25. All inland letters, bookposts, and other objects on which either no payment or insufficient payment has been made by affixing stamps shall be regularly transmitted and delivered, but before delivery within the State double the amount of postage so omitted to be prepaid shall be paid in money. The sum so to be paid shall be written or printed on the letters or other objects by the postmaster who transmits or delivers the same.

26. All letters shall be marked with an impression of the date stamp of the day on which they are posted, and on transmission before issue to the addressee or interested person shall be marked with an impression of the date stamp of the day on which they are received at the office of delivery.

\* See Proc. No. 26, 1900 (Imperial Penny Postage.)

27. The person who claims the return of a letter posted by him before the transmission or delivery shall be bound to produce proof that the letter came from him. This proof may consist in the production of a complete copy of the address of the letter, written in the same hand and accompanied by an impression of the seal with which, or a statement of the manner in which, the letter was closed, in order to enable the one to be compared with the other. If after such comparison there remains any uncertainty, but beyond that the officials of the post office have no reason to doubt that the claim of the applicant is well founded, the opening shall take place in their presence, and they are entitled to have the signature of the writer of the letter shown to them before the same is returned. When the person who makes the application for the return of a letter is unknown to the officials of the post office, the return of the letter will not take place until he shall have proved his identity by proper means.

Application for return of posted letters.

28. The public prosecutors, to the exclusion of all other authorities or officials, may demand (provided it be by application in writing) that in the interests of justice a note should be made of objects intended for or presumably coming from persons who are suspected of any offence. If the said public prosecutors request such on their responsibility the said objects shall not be transmitted or delivered, but shall provisionally remain at the office. Delivery of such objects to the public prosecutor may take place only on authorisation of the State Attorney. The officials are bound to inform the Postmaster-General immediately of every application mentioned in this article, transmitting the request at the same time.

Public prosecutors.

How to act when crime suspected to have been committed.

29. The postmasters shall at the beginning of each month put up at the offices for public information a proper list of letters, post cards, and parcels which are unclaimed at their office, with a clear statement of the addresses. All aforesaid articles which have remained unclaimed for six weeks shall be forwarded to the General Post Office. All newspapers which have not been claimed during the period of six weeks may be destroyed.

Unclaimed letters, etc.

30. All letters and other objects which are unclaimed or cannot be delivered, and which are sent to the General Post Office, and which were not originally posted within this State, shall be returned by the Postmaster-General to the proper authorities of the country from which they came. All such letters and other objects which have been posted within this State shall be returned to the writers. When it does not clearly appear on the envelope of the letter who the writer is, such letters and other objects shall be opened in the presence of the official of the General Post Office appointed by the Postmaster-General. If, however, the name and address of the sender cannot be discovered, and the same contain no articles or documents of value, they shall be destroyed. If the sender does not wish to take them back they shall be returned to the General Post Office to be destroyed.

What to be done with unclaimed letters, etc

When letters contain letters or valuables.

31. All letters and other objects containing money or value, the addressee or the sender of which cannot be discovered, shall be kept by the Postmaster-General for a period of three months. If no application is made for them within that period the letter shall be destroyed and the contents if they represent a saleable value shall be sold in such manner as the Postmaster-General shall order. The cash money, as well as the proceeds of the sale of the articles found in those letters and other objects, shall, together with a list of particulars, be deposited with the Treasurer-General for the period of a year, after the expiration of which such deposited moneys shall lapse to the State, and restitution may be made only on special authorisation from the Postmaster-General.

Penalty for non-payment of postage.

32. The sender of an unclaimed letter or other object, opened under the provisions of this law, shall on demand pay the postage and other moneys due thereon respectively if not duly stamped at transmission; and in case of refusal he shall, if found guilty, pay a fine not exceeding twenty shillings sterling; and in any prosecution for the recovery of the said fine the person from whom the letter or other object is presumed to have come shall be looked upon as the sender, unless he shall prove that such letter or other object was not sent by him.

When letters are suspected to contain valuables, etc.

33. All letters or other objects suspected to contain valuables or saleable articles, or containing anything in conflict with or in contravention of any law with regard to import duties or orders given under authority of such law, or which have been posted with the object of evading the charges due thereon, shall be opened in the presence of the person to whom they are addressed or his representative, and the Customs duties due thereon shall be recovered before delivery. The postmaster shall on receipt of such letters or other objects immediately give notice thereof to the addressee.

Post cards.

34. No other post cards than those which are issued on behalf of the State may be sent as such. The only exception to this rule is the reply halves of post cards, to which the answer is prepaid, coming from abroad. The face is intended only for the postage stamps, for the directions relating to the postal service, and the address of the addressee. The sender may, moreover, mention his name and address on the face either in writing or by means of a stamp or any other typographical means. Engravings or announcements may be printed on the face. They may in no single respect, however, interfere with the clear directions of the address and the affixing of the stamps and the notes of the postal service. With the exception of the postage stamps it is forbidden to attach or affix anything to post cards. If these directions are contravened, the post cards shall be treated as letters.

What may be written on face.

What are newspapers.

35. As newspapers shall be considered all daily, weekly, and monthly papers which appear at regular intervals; to wit, all publications which consist wholly or chiefly of political or other news or articles thereon or other current topics, with or without advertisements. The full title and date of publication

shall be printed on the top of the first page, and the whole or part of the title at the top of each of the following pages. Supplements belonging to a newspaper and sent therewith shall not be considered as separate newspapers. The supplement shall, in order to pass as such, be a continuation of a newspaper, namely, that portion for which the usual paper form, on which the newspaper is printed, does not afford sufficient space, but which in other respects, although printed on a separate sheet, clearly forms an actual part of such newspaper, and is not separately obtainable or is not intended for separate circulation. Maps, railway time-tables, and insurance tables (premieplaten), as also prospectuses, catalogues and price-lists, etc., are not allowed as supplements.

Supplements.

Maps, catalogues, etc., not supplements.

How newspapers to be sent.

36. Newspapers shall not be sent in an envelope, but only in a wrapper open at both ends, so that the nature of the thing sent may easily be ascertained. No communication, addition, erasure, or indication, no matter in what manner, shall be made on or in the newspaper or on the outside or inside of the wrapper except the title of the newspaper with the printed names of the printer, publisher, or sender, as also the address and the date of transmission; and nothing, with the exception of the supplements hereinbefore described, shall be enclosed in or with the newspaper or accompany the same. A portion of the text of the newspapers to which it is desired to draw attention may be underlined enclosed in brackets or indicated in other ways.

37. In the event of a newspaper being posted in conflict with the preceding provisions, it shall be sent at letter rate, but if the sender is known he shall be punished with a fine not exceeding five pounds sterling or imprisonment not exceeding one month.

Penalty.

38. By printed matter shall be understood all the following articles which are done up in open wrappers or in such a manner that the post officials can easily note the contents.

Printed matter—what is.

(a) All printed papers, such as newspapers, periodicals, books, pamphlets, pieces of music, visiting cards, address cards, proofs of printing with or without the copies relating thereto, documents in puncture writing (for the blind), engravings, photographs and albums with photographs, pictures, drawings, plans, maps, catalogues, prospectuses, announcements, and notices of various kinds, even if in the form of a letter, which are printed, engraved, lithographed, or autographed; and in general all duplications (vermenigvuldigde stukken) produced upon paper, parchment, or cardboard (but not upon wood or *papier maché*) by means of printing, engraving, lithographing, or autographing, or any other mechanical process easy to recognise, except those made by the copying press or typewriter. On the same footing as printed matter are placed impressions from an original, made either with the pen or with the typewriter, when such

impressions are obtained by mechanical process (chromography, etc.); but in order to be allowed to come under the tariff for printed matter such impressions shall be tendered at the post office, that is to say to a number of at least twenty exactly identical copies.

Commercial papers.

(b) Commercial papers, namely, all papers and communications written or drawn wholly or partly by hand which do not bear the character of correspondence on matters of an actual or personal nature, such as documents of legal procedure, deeds drawn up by public officials, way-bills, or bills of lading, accounts, the different documents of insurance companies, copies of or extracts from deeds written on stamped or unstamped paper, written scores or loose sheets of music, separately sent manuscripts of books and newspapers, and corrected school work of pupils, but excluding any comments on such work.

What may be written on printed matter.

39. The printed matter may not contain any additions or indications howsoever made after being printed. This rule shall, however, admit of the following exceptions:—

(a) The name, the commercial firm, and the residence of the sender may be mentioned outside the document.

(b) On printed Christmas, New Year, and other cards the address of the sender, his title, as also wishes, congratulations, expressions of thanks or of condolence, or other terms of courtesy, not exceeding five words, or by means of letters in general use (as for instance p.f.) may be added in writing.

(c) On the printed matter itself the date of transmission, the signature, or the commercial firm, and the calling, as well as the name and address of the sender may be mentioned or altered in writing or by mechanical process.

(d) The manuscript may be sent with corrected proofs of printing, and in such proofs of printing, corrections and additions may be made which refer to the correction, the form, and the printing (in the event of insufficiency of space, such additions may be made on loose sheets).

(e) Printer's mistakes may be corrected in other printed matter as well as in proofs of printing.

(f) Portions of a printed text may be scored out in order to make them illegible.

(g) Words or portions of the text to which it is desired to draw attention may be accentuated by marking or underlining.

(h) On price-lists, offers of advertisements, stock exchange intelligence, trade circulars, and prospectuses, the figures, as also on the notices of intended visit the name of the traveller and the date and name of the place which he proposes to visit, may be mentioned or corrected with the pen or by mechanical means.

(i) In announcements in regard to the departure of ships, the date of such departure may be mentioned in writing.

(k) On invitation cards and notices of meetings the name of the person invited, the date, the object, and the place of meeting may be mentioned.

(l) On books, music paper, newspapers, photographs, engravings, Christmas and New Year cards, a dedication may be made, and the invoice relating to the work itself may be added.

(m) On order cards or subscription forms relating to publications of the book trade, books, newspapers, engravings, musical pieces, the desired or offered works may be mentioned in writing, and the printed information may be either wholly or partly scored out or underlined.

(n) Fashion plates, maps, and other charts may be coloured.

(o) On cuttings from newspapers and periodicals the title, the date, the number, and the address of the issue from which they were taken may be added in writing or by mechanical process.

40. As samples or specimens of merchandise only such things as are really in the nature of specimens or samples, and so have no commercial value, shall be allowed to be sent. As such shall be considered small portions of one or other product of agriculture or horticulture and industry which are supplied gratis, and which are intended to enable a person to form an opinion about the quality (soort) which the sample represents or about the piece from which it has been taken.

Samples.

Objects of natural history, dried or cured (voor bederf bewaarde) animals and plants, and samples of minerals which are not sent for purposes of trade, are also allowed to come under the tariff for samples.

41. Notifications allowed to accompany samples are the following:—The name or the firm of the sender, the address of the addressee, a factory or trade mark, consecutive number, prices and directions as to weight, measure and dimensions, or such directions as are necessary to indicate the origin and the nature of the merchandise.

Notifications of samples.

42. All parcels shall be capable of being opened for inspection or accompanied by a declaration signed by the sender that they contain no letters or other articles subject to a higher postage or in conflict with the provisions of this law. They may not be more than three feet long and a foot and a half broad or high, and shall not weigh more than eleven pounds. Every postmaster is entitled, if there are grounds for suspecting that the aforesaid provisions have been contravened, to open parcels and to satisfy himself of the contents, in the presence of the addressee or a witness.

Requirements in case of parcels.

43. Parcels may be sent by post, but may not contain articles subject to a higher postage, gunpowder, cartridges, matches, or other articles of an explosive or dangerous nature, live animals or insects, filthy or infectious articles, fish, meat, or the like. (Glass articles, liquids, knives, scissors, needles, or other sharp or dangerous instruments, oil, greasy substances, powder, as well as live bees, may be sent by post, provided they

What may not be sent in parcels.

are packed in such a manner that no damage or injury can be done to the post officials or things entrusted to the post.) All such parcels may not be sent by post, and the post office officials shall refuse them. No parcels containing precious stones, coins, money, gold (wrought or unwrought) or ostrich feathers may be sent, except on payment of letter postage properly closed and registered.

When parcels may not be sent back.

44. Where it appears that the entire post without exception cannot be sent, the parcels may be kept back till the following post is sent. Parcels shall also not be sent to such offices to which circumstances do not permit such. The postmaster at the office where such parcels remain behind shall give notice thereof to the addressee.

What may be registered.

45. All letters with or without valuables, and also unclosed objects which do not contain money, paper representing money value, precious metals or valuables, may be registered, for which after prepayment of a registration fee a receipt shall be given to the sender at the office of transmission.

When registration shall not take place.

46. No letter shall be registered which is not closed on all sides in such a way that it is impossible to open it or to take anything out in some way or other without tearing the cover or breaking or damaging the seal or one of the seals with which the letter is sealed. The contents, moreover, shall not be mentioned on the letter.

Compensation.

47. The sender of postal matter (stuk) registered in accordance with the provisions of both of the preceding articles shall be entitled to compensation in case of loss, also in case of the contents or portion thereof being missing, provided that on delivery the letter was so damaged that extraction was possible, and at the time the contents were ascertained in the presence of the post official. The compensation shall amount to two pounds sterling (fifty francs) for any registered document, no matter what the value of the thing lost may be, even if the loss is the result of superior force.

When liability for compensation ceases.

The liability to pay eventual compensation ceases as soon as the registered matter has been delivered against receipt (ontvangst bewijs).

The claim to compensation lapses if no application in writing for payment is made to the Postmaster-General within a year from the date of the receipt given to the sender.

Recovery of missing article.

If the missing article is wholly or partially recovered, notice thereof shall be given if possible to the sender and to the addressee. The sender may get back the article found on repayment of the compensation paid, provided this takes place within one month after the aforesaid notice was received by him. If such period has lapsed without the sender having claimed the article found, an opportunity shall be given to the addressee during a like period to take back the article recovered on payment of the amount which was paid to the sender. If that opportunity is also not made use of the article found shall lapse to the State.

48. The postmasters shall at all times be bound to render an account of registered letters received by them. If a registered letter be missing or wrongly delivered the sender shall have a civil action against the person through whose negligence the letter was lost. The right to bring an action for damage shall lapse, however, if it be not instituted within a year from the date of the receipt issued to the sender. The sender shall be bound to give, as far as he is able to do so, all information asked for to enable all measures within the reach of the Postmaster-General and the respective post officials to be taken to search for such letter which is missed or has been wrongly delivered.

Postmaster to render account of registered letters.

Action for damages.

49. No compensation shall be paid for losses incurred by neglect, delay, injury to, or leaving behind of any letter, post card, parcel, newspaper, or small parcel (pakje) posted or received for transmission under the provisions of this law, or on account of delay in the payment of the amount of a money order, postal order, or Post Office Savings Bank order.

When no compensation payable.

50. Registration shall be compulsory when transmitting money, bank notes, paper money, precious metals, ostrich feathers, or valuables. Should it be suspected that the sender has acted in conflict with this provision, the registration shall be done officially, and double the amount of the registration fee shall be payable, which amount shall be paid by the addressee before delivery takes place. If such person shall, on the delivery of the letter or the parcel, open the same in the presence of the postmaster or post official, and it shall appear that it contains no money or other valuables, the registration money shall be returned to him.

When registration compulsory.

51. The delivery of registered matter shall take place only to the addressee or his authorised representative after the signing of such receipt as shall be provided for the purpose. The authorised representative herein mentioned shall produce a written authority to the satisfaction of the postmaster. Such authority is exempt from stamp duties.

Delivery of registered matter.

52. All officials of the State are entitled to send their service letters or official correspondence free of postage. Such letters shall be marked at the top with the words "On Service," and in the left-hand bottom corner of the envelope the name and office of the official shall be written or stamped.

Official correspondence free of postage.

The following letters and other documents shall, however, be liable to the ordinary postage, namely, those sent

What documents not free.

(a) to the Registrar of Deeds containing deeds passed before the landdrost and transmitted by him;

(b) by sheriffs and messengers of the court in private law suits;

(c) to the Master of the High Court as to insolvent or sequestrated estates;

(d) to the Orphan Master as to testate or intestate estates, with the exception, however, of death notices, wills, and inventories, which may be sent free of postage.

Letters to and from persons on commando.

53. Letters, newspapers, and books from and to persons on commando in time of war, and from and to the military on active service, are free of postage.

State Museum and State Library.

54. Donations to the State Museum and all consignments and correspondence from the State Library enjoy exemption from postage.

Correspondence with Education Department.

55. Teachers and secretaries of school committees are entitled to send their correspondence to the Department of Education free of postage, provided it relates only to education, subject to the provisions of article *fifty-one* of this law.

Special exemptions.

56. In special cases which may arise (*bij voorkomende gelegenheden*) the State President may, on the proposal of the Postmaster-General, grant exemption from postage.

When letters addressed "On Service" by private persons to the Government.

57. Letters addressed "On Service" to the Government or to the heads of departments in their official capacity by private persons may be sent by the postmaster at whose office they are posted, but on delivery the postmaster by whom such letters are received may demand that they be opened in his presence in order to satisfy himself as to whether the letter deals with official or private matters, and in the latter case report thereon to the proper official in order to enforce article *sixty-one* of this law. In case a postmaster, however, has reasonable grounds for suspecting that letters are being sent as aforesaid in contravention of the provisions contained in this article, he shall have the power to demand from the sender that the contents be shown to him.

Memorials or petitions to Legislature.

58. Memorials or petitions addressed to the Legislature or to a member thereof, whether with or without an accompanying letter, are free from postage. On the outside of the envelope the word "Memorial" shall be written, and at the bottom the name and the residence of the person who sends the same.

*Staatskoerant*.

59. The *Staatskoerant* shall be sent free of postage, but only if enclosed in a wrapper open at both ends and with the words "On Service," together with the title of the same and the name of the printer printed thereon, and if received at the post office direct from the printing office.

Exchange numbers of newspapers.

60. Publishers of newspapers shall be entitled to send their exchange numbers, that is newspapers exchanged between publishers of newspapers, free of postage. The newspapers shall have the words "Exchange Number" on the envelope, and shall be signed by the editor, publisher, or a responsible person whose signature has been handed in at the local post office.

Penalty for sending private correspondence "On Service."

61. Should it be proved that an official or other person sends letters and other matter dealing with private matters "On Service," he shall be fined by a court with a fine not exceeding five pounds sterling for the first offence, and on repetition he shall be prosecuted by the proper authorities for fraud (*falsiteit of bedrog*).

Conveyance of inland posts.

62. All inland posts shall be carried under contract entered into by the Postmaster-General on behalf of the Government for a period not exceeding five consecutive years,

except in cases where the conveyance takes place by natives. The Postmaster-General, however, retains the right to terminate the contract on giving four months' notice.

63. The post contractors shall be bound to carry the post from one post office to another within the time defined in the contract, and shall be bound to touch at all post offices or post agent's offices established or still to be established on their post-way for the receipt and delivery of post bags or post parcels, and the time of delay shall be fixed by the Postmaster-General.

Post  
contractors.

64. In case of late arrival of posts the Postmaster-General shall not take into consideration any excuse whatsoever except that the delay was caused by swollen rivers, spruits, or other reasons in consequence of which it was practically impossible for the post contractor to continue without running the risk of losing post bags, which excuse shall, however, be proved to the satisfaction of the Postmaster-General, if need be by affidavit. In all other cases the penalty mentioned in the contract shall be strictly enforced, and in case of a repetition may be doubled. The fine shall, however, in the case of the first late arrival not exceed one pound sterling per hour.

Late arrival of  
posts.

65. Notwithstanding the provisions contained in the preceding articles, the Postmaster-General shall have the right, if the contractor fails three times in succession to convey the post within the time fixed, to call immediately for tenders for a new contract for the conveyance of the said posts, and the defaulting contractor or his sureties shall suffer the loss thereby caused to the Government.

Postmaster-  
General may  
call for new  
tenders.

66. In the event of a post contractor generally showing continuous carelessness in carrying out his obligation (such as—Trs.) the employment of bad, unsuitable conveyances or draught animals, bad servants or otherwise, the Postmaster-General shall have the right to terminate the contract immediately without any proof or form of process being necessary for the purpose, or to demand from the sureties of the contractor the further performance of the contract, or to call for fresh tenders, the higher amount of the contract price of which, and the expenses incurred, shall be recovered from the defaulting contractor or his sureties.

When  
Postmaster-  
General may  
terminate  
contracts.

Unsatisfac-  
tory service.  
Performance  
by sureties.

67. The post rider or driver shall be provided with a horn or trumpet in order to make known therewith the departure and arrival of the post, and also in order to warn drivers of conveyances along the road to take care (*voorziening te maken*) that the post is not delayed. If after a timely blowing of the horn persons refuse to afford the necessary space for the passing of the post, the provisions of article *ninety-seven* of this law may be applied to them.

Post driver  
to have horn  
or trumpet.

68. If a post rider or driver, in the carrying out of his duties, shall be guilty of drunkenness or of abuse of strong drink, or shall delay along the road without lawful prevention, in consequence of which the post shall not reach its destination at the time fixed, he shall be liable to a fine not exceeding ten pounds, or imprisonment not exceeding three months with hard

Drunkenness  
of post  
drivers.

Penalty.

labour. This does not prevent, however, that the contractor remains liable to the fine prescribed in article *sixty-four* of this law.

Responsi-  
bility of post  
contractors.

69. The post contractors are personally responsible for all damage and loss which may be caused to letters and other articles through the action, negligence, or carelessness of themselves or their subordinates, and such damage or loss may be recovered from them and their sureties either by the Government or by private parties.

Routes to be  
followed.

70. The post contractors shall convey the post along the road mentioned in the contract, but the Postmaster-General has the power to alter the route as long as the distance is not appreciably increased. They shall unconditionally submit to the alterations of time to be fixed by the Postmaster-General for the conveyance of the post, no matter whether such conveyance shall take place by day or by night, without being able to claim special compensation therefor.

When  
Postmaster  
may hire other  
conveyance.

71. If at the hour when the post should depart the post cart or post wagon is not in readiness for departure in front of the post office, the postmaster of such post office shall be entitled to hire other means of conveyance, which shall carry the post for account of the contractor, and the expenses shall be deducted from the contract price without the defaulting contractor being able to object to the same, except in the case of other instructions to be issued in special cases by the Postmaster-General to the postmaster.

When only  
part of posts  
arrives.

72. In case it should appear to the postmaster on the arrival of a postal conveyance, that not all post bags, post parcels, or other articles belonging to the post, according to the way-bill, have arrived (*aanwezig zijn*), the postmaster shall immediately report the matter to the Postmaster-General, and the defaulting post contractor shall be liable to be fined by the Postmaster-General a sum not exceeding twenty-five pounds for each post bag or parcel missing, unless the contractor can sufficiently prove to the satisfaction of the Postmaster-General that such loss was occasioned by unforeseen circumstances entirely beyond the control (*geheel onafhankelijk*) of him (the contractor) or his subordinate. The post contractor and his sureties shall nevertheless be liable, in accordance with article *sixty-eight* of this law, for all damage and loss occasioned thereby.

Penalty.

Postmaster to  
give way-bill  
to post rider.

73. On the departure of a post a proper way-bill (*tijldijst*) shall be handed by the postmaster to the post rider, mentioning the day and hour of the departure of the post and the number of post bags and post parcels, together with the name of their place of destination. This way-bill shall be countersigned by each postmaster or post agent at whose office the post stops, mentioning the time of arrival and departure and the removal or addition of post bags or parcels.

No dangerous  
articles to be  
conveyed.

74. No articles which may cause fire or explosion, or which through the breaking of bottles or otherwise may cause damage, shall be carried with the post.

75. The post contractors are bound to convey with the post writing materials for the Government offices in the country districts without being entitled to claim any special payment therefor.

Free conveyance of writing materials for Government.

76. The post contractors shall, when notice thereof is given an hour before the departure of the post, keep open a seat for any official or private person who proceeds by the post by order of the Government without receiving any remuneration therefor. The contractor is bound to carry the Postmaster-General or his lawful representative free of charge, and to give the Government the preferent right to as many seats as it may consider necessary at any time. The Government has, however, the power to make contracts for the conveyance of posts without free carriage of passengers, but with the preferent right aforementioned against the usual payment. No one shall, however, make use of such right without a written order from the Postmaster-General.

Seat to be kept for Government official.

77. The contract price for the conveyance of the post shall be paid by the Treasurer-General monthly to the Postmaster-General. The Postmaster-General shall, however, not make any payments until all fines incurred and all other sums due by the post contractor for non-compliance with the terms of his contract have been deducted.

Payment of contract price for conveyance.

78. The post contractors shall on entering into an agreement with the Postmaster-General furnish two substantial (gegoede) sureties approved of by him, domiciled within this State, and each of them owner of unmortgaged fixed property situate within this State to the value of at least five hundred pounds sterling (£500), who shall bind themselves jointly and severally for the contractor in favour of the State, and also in favour of private persons who may suffer damage through the loss of letters or post bags or post parcels, to make good all damage and loss which may be caused by negligence or unwillingness or any other cause whatever occasioned by or on behalf of the contractor, and which the contractor shall prove unable to satisfy. In the event of the contractor for whom they stand security failing to comply with the terms of his contract, in consequence of which the contract is cancelled by the Postmaster-General, the said sureties shall carry it out as though they had each undertaken the obligations for themselves. If the Postmaster-General should deem it better under the provisions of this law to call for fresh tenders for the further conveyance of the post, they shall also be bound to acquiesce therein, and shall make good all damage and loss occasioned thereby.

Sureties.

79. Nothing contained in articles *sixty-two* to *seventy-eight* (inclusive) shall apply to the conveyance of the post by railway. The conveyance of the post by railway shall take place in accordance with the provisions of the contracts entered into on behalf of the Government by the Postmaster-General with the recognised representatives of the railway companies in pursuance of the existing railway concessions, contracts, or agreements relating thereto.

Sections 62 to 73 not to apply to conveyance of post by train.

Private  
post-bags.

80. Persons living alongside a post road may have a private post-bag in which their correspondence may be transmitted subject to such provisions and at such prices as shall be fixed by the Postmaster-General.

Lease of  
private letter-  
boxes.

81. At such post offices where private letter lockers or boxes have been put up by or on behalf of the Government, such may be leased at a yearly rental, the amount of which shall be fixed by the Postmaster-General. Payment shall be made in advance, and the hire shall be subject to such conditions and regulations as may be fixed by the Postmaster-General.

Money orders  
and postal  
orders.

82. Money orders and postal orders shall be obtainable by the public for sums not exceeding ten pounds sterling, provided that the Government shall have the right at any time in consultation with the Postmaster-General to repeal this provision.

Money and  
postal orders  
regulations.

83. The State President shall have the power, on the proposal of the Postmaster-General, to issue, alter, or amend such regulations with regard to the money order or postal order administration as may be considered necessary, in which provision shall at the same time be made for the commission to be charged for issuing the same. All such regulations fixed by the State President shall be binding and decisive for all officials of the Postal Department and for interested persons to whom money orders shall be issued, and the said regulations shall, one month after publication in the *Staatskoerant*, in all respects have the same force and effect as if they had been inserted and included in this law.

Payment of  
money orders  
and postal  
orders.

84. After a money order or a postal order shall once have been paid, no matter by whom it was presented, the Postal Department shall no longer be liable for any further claim. The Postmaster-General, however, has the power to claim from any postmaster the amount which may have been wrongly paid out through negligence or neglect of duty.

Oath to be  
taken by  
officials.

85. The post officials or all other persons in the employ of the Postal Department shall, before entering on their employment, take the following oath before a person thereto qualified:—“ I promise and solemnly swear fidelity (trouw) to the people and the laws of the South African Republic, to act in my appointment and office honestly, justly, and fairly, without respect of persons, in accordance with the law and to the best of my knowledge and conscience; that I shall always observe the strictest secrecy with regard to the matters entrusted to the post, including the affairs of the Post Office Savings Bank; that I shall not open, keep back, or cause to be kept back, in conflict with my duty as..... any letters or anything entrusted to the post and placed under my charge, save with the consent of the person or in the presence of the addressees or competent persons, and that I shall in no way purloin (verduisteren)

letters or other articles entrusted to the post; to obey according to law the orders of those placed over me, to render account of the money entrusted to my responsibility when and wherever such may be demanded of me. So truly help me God Almighty."

86. All post office officials are subject to the orders of the Postmaster-General, which order they shall follow strictly.

Officials subject to orders of Postmaster-General.

87. All officials in the employ of the Postal Department shall be in duty bound to strictly observe the secrecy and the inviolability of the correspondence and other affairs of the Postal Department.

Secrecy and inviolability of correspondence.

88. Postmasters are forbidden to admit persons who do not belong to the postal service to the interior of the post office, unless such persons be provided with a special permit from the Postmaster-General or persons who have a general authorisation from the Government to be admitted.

Admission to interior of post offices.

89. The officials shall in the case of misconduct or non-compliance with the duties imposed upon them by the Postmaster-General be punished with a fine not exceeding five pounds sterling or be suspended from office.

Penalty for misconduct by officials.

90. No postmaster shall be entitled to open closed post bags or parcels intended for another office and passing through his office, unless he is authorised thereto by the Postmaster-General.

Postmaster not to open bags intended for another office.

91. If at the time fixed for transmission of a post other posts have not yet arrived, the postmaster has the power to delay the transmission, provided no considerable interference be caused thereby to the regular conveyance of the post in other places. In all cases the postmaster shall give notice to the postmaster of the office to which the post is going of the time and the hour of the final departure by means of the way-bills for the post contractors. For no other reasons shall the post be delayed without the consent of the Postmaster-General.

When postmaster may delay post.

92. All letters, post cards, or other matter shall be forwarded by the post officials without delay to the General Post Office

When letters, etc., to be forwarded to the General Post Office.

(a) on the outside of which blasphemous, filthy, offensive, or libellous things are written or drawn;

(b) which contain no address or no legible or clear address, or when they cannot be delivered at the address given on same;

(c) those which the persons to whom they are addressed refuse to accept or to pay the postage due thereon;

(d) those which are known or reasonably suspected to have been posted or to contain anything in conflict with this law, or in contravention of the law on Customs duties, or to contain anything immoral.

Custody and  
destruction  
of documents.

93. The following provisions shall have force of law with regard to the custody and destruction of old documents relating to the postal service:—

This custody shall extend to—

(a) For a period of one year: Applications for and acknowledgments of receipt of postage stamps and other means of franking (frankeerings formulieren); statistics of correspondence received and despatched; lists of published and unclaimed letters; returns of letter boxes and post bags; way-bills (brievenlijsten) of posts transmitted between post offices; and other documents which are regularly booked and which are included in other reports and entries.

(b) For a period of three years: Paid money order forms issued in South Africa; reports of irregularities which have taken place at offices; way-bills relating to the conveyance of posts; reports and investigations in regard to missing articles; and other correspondence or reports in regard to the conduct of postal affairs which in the nature of the case are of no further use.

(c) For a period of five years: Registers of registered correspondence; forms of paid oversea money orders; money order journals for use in post offices; and such other registers or forms as have been registered in the permanent books of the head office.

Penalty for

94.\* Any person who is guilty of any of the following offences shall be liable to imprisonment with hard labour for a period not exceeding seven years:—

forging  
postage  
stamps, etc.;

(a) If he shall forge, alter, counterfeit, or shall assist in forging, altering, or counterfeiting any postage stamp, post card (with or without stamp), envelope, money order, or postal order in use or made on the authority of the State President for the purposes of this law, or shall use, dispose of, or offer any counterfeit or forged postage stamps, envelopes, post cards, money orders, or postal orders knowing that the same are forged or with fraudulent intent.

engraving  
plate, etc.;

(b) If, without the authority of the State President (the onus of proving which authority shall in this case lie on the accused person), he shall engrave on a plate or any material any stamp or figure in use for the purpose of this law.

having in his  
possession  
tools, etc.;

(c) If he shall make, cause to be made, or have in his keeping or possession without lawful excuse (the onus of proving which shall lie on the accused person), any form, frame, or other tool on which are any words, letters, figures, marks, strokes, or mottoes peculiar to paper which is used for postage stamps, money orders, or postal orders, or if any person shall make, cause to be made, or assist in making, or have in his possession or keeping without lawful excuse (the onus of proving which shall lie on the accused) any paper in the fabric of which are any words,

\* See Ordinance No. 1, 1903, section 224.

letters, figures, marks, strokes, or mottoes peculiar to paper which is used for postage stamps, money orders, or postal orders, and intended for the purpose of counterfeiting the same or to be passed off as such.

(d) If he shall without any lawful excuse (the onus of proving which shall lie on the accused) buy, sell, trade in, take, or have in his keeping or possession any paper on which money orders, postal orders, or postage stamps are printed.

Penalty for selling, etc., paper on which money orders, etc., are printed ;

(e) If he shall for his own benefit and purposes or with fraudulent intent make use of any stamp, plate, paper, or colouring provided by any one who is charged with the manufacturing of stamps, plates, paper, or colouring for the purposes of this law.

using for own benefit any stamp, etc.

95. If any person is guilty of any of the contraventions mentioned in the preceding article as far as concerns foreign issues of postage stamps, money orders, and postal orders of countries belonging to the General Postal Union, he shall if found guilty be liable to imprisonment with or without hard labour for a period not exceeding three years.

Penalty for contravention in case of foreign issues of stamps, etc.

96. If any person with intent to commit fraud shall remove from a letter or other matter entrusted to the post a stamp that is affixed thereto, or shall remove from any previously used stamp any mark which has been made thereon or shall knowingly utter or use such a postage stamp, he shall if found guilty be liable to a fine not more than fifty pounds sterling, or to imprisonment with or without hard labour for a period not more than six months.

Penalty for removing stamp.

97. With the exception of the persons authorised thereto by the Postmaster-General or by this law, no one shall be entitled to open the post bags, post boxes, or post parcels, either on the way or wherever it may be, and any person guilty of so doing shall be punished with imprisonment with or without hard labour not exceeding three years.

Penalty for opening post bags, etc.

98. Any person who shall wilfully obstruct the conveyance of the post on its way, or whose fault it shall be that the conveyance of the post is obstructed, shall be fined a sum not exceeding five pounds sterling for each hour's delay or portion thereof, or on non-payment with imprisonment not exceeding one month, with this proviso, that in cases of riot or other disturbances where there is any suspicion of treason, letters, post bags, and post parcels may be opened by military officers on active service to the number of at least three.

Penalty for interfering with conveyance of post.

99. If it shall be proved that letters or other matter have been opened or purloined by a post official, such official shall be immediately discharged from office and punished with imprisonment, with or without hard labour, not exceeding five years.

Penalty on official opening letters, etc.

100. Any person found guilty of any of the following acts or offences shall be liable to a fine of not more than fifty pounds sterling, or to imprisonment with or without hard labour for a period of not more than six months :—

Penalty for misdescription of contents of parcel ;  
damaging letter-boxes, etc. ;

(a) If he posts or causes to be posted a parcel or printed matter the contents of which are subject to a higher tariff, or wilfully writes on the outside of a parcel a false description of the contents.

(b) If he wilfully injures, breaks, or damages a place intended for the reception of letters and other matter, or places in or throws into a box intended for the reception of letters and other matter any substance by which damage may be caused to a letter or other matter or to the personnel of the post office.

opening, etc., letters, found by him or others ;

(c) If he opens, keeps back, hides, keeps, or destroys a letter or other matter which ought to be delivered to somebody else, or a post bag, box, letter, or other matter which shall be found by him or somebody else.

obtaining letters, etc., by false representations.

(d) If he by means of false pretence or representations induces a postmaster or other official of the Postal Department to deliver to him a letter or other matter not addressed to him.

For purposes of prosecution ownership of letters rests in Postmaster-General.

101. In any prosecution for any crime or contravention committed in regard to any post bag, letter box or parcel, or letter, post card, or newspaper transmitted by post, or any property, money, postal orders, or money orders under the control and administration of the Postmaster-General; or when any act shall be committed or done with any evil, injurious, or fraudulent intent relating to or affecting the Postal Department, or any property, money, money orders, or postal orders, it shall be sufficient to state that the right of ownership is in the Postmaster-General, or is in his lawful possession, and that any crime so committed is (committed—Trs.) with intent to injure or defraud the Postmaster-General without mentioning his name.

Imprisonment on non-payment of fine.

102. When any fine imposed under the provisions of this law is not immediately paid, the court which has found such person guilty shall order him to be placed in prison for a period not longer than twelve months, unless the fine imposed on him be paid.

Penalties in cases unprovided for.

103. In cases where the law contains a prohibition clause for which no penalty is provided in this law, the court on finding any person guilty of a contravention of such prohibition clause may punish him with a fine not exceeding fifty pounds sterling, or imprisonment for six months, and where the only penalty mentioned is a fine the court may proceed to fix such fine only.

Repeal.

104. Law No. 1, 1886, and the amendments of that law by Law No. 19, 1887, and No. 1, 1890, are hereby repealed, as also all laws and provisions with regard to the postal affairs, with the exception of contracts entered into or agreements made before the coming into operation of this law.

105. This law comes into operation on 1st January, 1899.



SECOND VOLKSRAAD RESOLUTION, 1st July, 1898,  
Article 664.†

(Accepted as notice by First Volksraad Resolution, 18th July, 1898, Article 841.)

Time for  
filing  
diagrams of  
werven.

The Second Volksraad having considered the report of the Head of the Mining Department Part VIII, article *fifteen*, and in connection therewith Second Volksraad Resolution, article *one thousand two hundred and nineteen*, dated 22nd September, 1897, and also the report of the commission mentioned in the said resolution, and having considered the discussion thereon;

Resolves to instruct the Hon. Government that the time for the filing of diagrams of homesteads (werven) referred to in the said resolution and commission report shall terminate on 31st December, 1898, and to instruct the Head of the Mining Department to cause due publication to be made hereof.

FIRST VOLKSRAAD RESOLUTION, 1st September, 1898,  
Article 1055.‡

The First Volksraad having considered the petitions and the report of the Petition Commission with regard to the electrical trams now being dealt with;

Resolves to agree with the report of the Petition Commission.

Said report read:

No trams to  
be driven by  
mechanical  
power.

Twenty-two petitions have been sent in to your Hon. Assembly with reference to tramways, of which three of the same tenour with 184 signatures requesting that existing and still to be constructed tramways may not be allowed to use steam or electricity as motive power; sixteen of the same tenour with 501 signatures that no alteration as to motive power may be allowed for the two existing tramways at Johannesburg; one petition with 131 signatures that in future no horse or electric trams may be allowed; one with eight signatures from the Directors of the Johannesburg City and Suburban Tramway Company to be allowed to use electricity as motive power, and one with 402 signatures by persons in Johannesburg supporting the request of the directors of the said Tramway Company in Johannesburg.

In connection with these petitions your Commission desires to report that it agrees with the majority of petitioners not to allow electricity or steam as motive power for trams in towns and villages generally, as well as those at Johannesburg specially, and recommends to your Hon. Assembly to reply to petitioners accordingly.\*

† Published in *Staatskoerant*, 3rd August, 1898; see S.V.R.R., 22nd September, 1897, Art. 1219 (*supra*).

‡ See V.R.R., 20th May, 1890, Art. 150 (*supra*).

\* As to Johannesburg see Ord. II (Private), 1906, sec. *twenty-four* (13); as to Pretoria see Tr. Pr. 7, 1902, sec. *twenty-seven* (5).

FIRST VOLKSRAAD RESOLUTION, 24th October, 1898,  
Article 1412.

The Volksraad, having considered the petitions and commission report now on the order,

Resolves to agree with that report.

Said report reads as follows:—

Two petitions of the same tenour were sent in to your Hon. Assembly with 131 signatures from lessees of grounds which have been proclaimed and are situate in the Kaap district, requesting, *inter alia*, that said grounds should also fall under the regulations which came into operation on 1st April, 1897, for the letting of Government grounds, as approved by article *two thousand two hundred and thirty-seven*, dated 4th December, 1896, of the Minutes of the Hon. First Volksraad. Since it appears from the petition itself that the Executive Council has already decided that said grounds shall not fall under said regulations for letting of Government grounds, and taking into consideration that the granting or not granting of grounds to lessees is entirely left to the Executive Council, therefore your commission cannot recommend to comply with the request of petitioners, also as regards the request to amend said regulations as further set out in the petitions under article *four*, letters *a*, *b*, *c*, and *d*.

Government ground leased in Kaap district not to fall under regulations for letting of Government ground.

FIRST VOLKSRAAD RESOLUTION, 7th November, 1898,  
Article 1586.

The report of the petition commission was accepted by acclamation.

Said report reads as follows:—

Two petitions with 142 signatures have been sent in to your Hon. Assembly, requesting the erection of a memorial on the graves of the officers and men killed during the Mapoch war, which graves are situate at Roosenekal.

Your commission can entirely agree with the request of the petitioners, and further deems it desirable that graves of officers and men fallen in service of the State, wherever situate, should be put and kept in order by the Government, wherefore they recommend to your assembly to refer this petition to the Hon. Government with instructions to act as requested by petitioners.

Government to put and keep in order graves of officers and men fallen in the service of the State.

FIRST VOLKSRAAD RESOLUTION, 29th November, 1898,  
Article 1855.\*

The First Volksraad, having considered Government letter asking authority to permit the construction of steam tram lines and branch lines from the mines for their own use for the conveyance of ore, minerals, mining necessaries, and coal,

Branch lines to mines.

\* See F.V.R.R., 11th November, 1897, Art. 1702 (*supra*); F.V.R.R., 5th July, 1899, Art. 417 (*infra*).

Resolves to agree with this Government letter, and authority is hereby granted to the Government in so far as concerns steam tram lines and railway branch lines, exclusively for the conveyance of ore, minerals, coal and mining necessaries coming from the areas of the mine owners themselves, from the mines to the machinery, or to the nearest railway station. The Government can in no case apply the expropriation law to any permission so granted. These permissions shall only extend to a distance of twelve miles. Should a longer distance be desirable, the consent of the First Volksraad shall be necessary thereto.

FIRST VOLKSRAAD RESOLUTION, 1st December, 1898,  
Article 1870.

The First Volksraad, having considered Executive Council Resolution, contained in Government letter, dated 7th November, now on the order,

Resolves to agree with said Executive Council Resolution and instructs the Hon. Government to act accordingly, and therefore to make the necessary amendments to the Marriage Ordinance, Law 3, 1871, and to lay such amendment before the First Raad in the next ordinary session.

Said Executive Council Resolution is the one of 19th October, 1898, article *nine hundred and seventy-eight*, reading as follows:—

Resolves to recommend to the Hon. the First Volksraad not to declare Ventersdorp and surroundings a district, but to propose to and request this hon. body to pass a resolution whereby the Government is authorised, with advice and consent of the Executive Council, in cases such as the present and other similar cases, if by complying with such request too much ground should have to be cut off from other districts, in order to meet with the difficulties of burghers and inhabitants who live far from the seat of the Landdrost, Special Landdrost, or Mining Commissioner, to extend the powers and jurisdiction of the Resident Justices of the Peace in this sense, that these officials could act as marriage officers and collectors of taxes within their jurisdiction, such officials to account for the moneys collected by them to the Civil Commissioner or official acting in his place in districts where there is no Civil Commissioner.

PROCLAMATION of 4th February, 1898.

Whereas it has appeared from information supplied by the Inspector-General of Import Dues that old clothing, as also ox tails and raw hides, are imported for trade, which have not undergone the process of cleaning or disinfecting from infectious matter, as prescribed in other countries.

Whereas hereby infectious diseases may be brought into this State.

Whereas by Law No. 12, 1895, His Honour the State President is authorised to adopt, for the preservation of public health, the necessary measures against the possible dissemination of contagious or infectious diseases.

Now, therefore, I, Stephanus Johannes Paulus Kruger, State President of the South African Republic, with advice and consent of the Executive Council, as appears from article *ninety-five* of its minutes of 24th January, 1898, hereby notify that from to-day the importation is prohibited of all old or used clothing, ox tails, and raw hides which have not been cleansed or disinfected of infectious matter, and the proofs of which must be submitted to the satisfaction of the Collector of Customs, who is hereby ordered to see to the carrying out of this Proclamation, and should the articles aforesaid be imported notwithstanding this Proclamation, the Collector of Customs is then ordered, after enquiry, and on finding that the provisions of this Proclamation have not been complied with, to have the old or used clothing, ox tails, and raw hides mentioned in this Proclamation destroyed by burning.

Importation  
of old clothes,  
etc., forbidden  
unless  
disinfected.

GOVERNMENT NOTICE No. 52, 1898,\*  
dated 27th January, 1898.

The Government of the South African Republic, having taken cognizance of the Resolution of the Hon. First Volksraad, article *two thousand two hundred and eighty-six*, dated 10th December, 1896, by which the Government was authorized, with advice and consent of the Executive Council, to make provisions in such manner as might be deemed most desirable and serviceable, that the Consul-Generals, Consuls, and Vice-Consuls of the Kingdom of the Netherlands in the South African Republic shall have the right, in so far as they have been authorized thereto by their Government, to solemnize marriages in the South African Republic valid according to civil law (*burgerlik geldig*) to frame registers of births and deaths of subjects of the Kingdom of the Netherlands, and whereby it is further provided that such marriages and registers (*akten*) shall be recognized as legal and valid in the South African Republic.

Consul-  
Generals, etc.,  
of the  
Netherlands  
empowered  
to solemnize  
marriages  
and to frame  
registers of  
births and  
deaths of  
Nether-  
landers.

Taking into consideration the desirability that such provision as referred to in aforesaid resolution of the Hon. First Volksraad should now be made;

Proceeds, with advice and consent of the Executive Council by virtue of its resolution, article *forty-four*, dated 14th January, 1898, to make the following declaration:—

The Consul-Generals, Consuls, and Vice-Consuls of the Kingdom of the Netherlands in the South African Republic, shall have the right, until further provisions have been made therein, in so far as they have been authorized thereto by their Government, to solemnize marriages in the South African Republic valid according to civil law, and to frame registers of births and deaths of subjects of the Kingdom of the Netherlands.

Thus done at the Government office at Pretoria on the 27th day of January, 1898.

\* See Act No. 13, 1909, sec. 11.

GOVERNMENT NOTICE No. 621, 1898,†  
dated 19th November, 1898.

For general information it is hereby notified that the Hon. Executive Council has resolved by resolution, article *one thousand one hundred and one*, dated 15th November, 1898:

Coolies, etc.,  
to move into  
locations.

1. That the coolies and other Asiatic coloured persons who do not as yet dwell and carry on business in the locations appointed for that purpose, but dwell and carry on business in conflict with the law in a town or stands township, or on other places not appointed for that purpose by the Landdrost or by the Mining Commissioner or by the Field Cornet at their instruction, shall be notified to proceed to dwell and carry on business in the locations appointed for that purpose on or before the 1st January, 1899, in terms of Law No. 3, 1885, as amended in 1886 by Volksraad Resolution, article *one thousand four hundred and nineteen*, dated 12th August, 1886.

Lists of  
names of  
coolies to be  
framed.

2. That the Landdrosts or the Mining Commissioners, however, shall frame two lists of the names of the coolies and other Asiatic coloured persons who have carried on a large business for a considerable period on another place than the location appointed for that purpose, and for whom it would therefore be difficult to transfer their business within so short a time. On the one list may be placed the names of coolies or other Asiatic coloured persons to whom in the opinion of the Landdrost or Mining Commissioner extension may be granted for three months at the utmost, and on the second list the names of coolies or other Asiatic coloured persons to whom in the opinion of the Landdrost or Mining Commissioner six months extension at the utmost may be granted, and who must therefore comply with the said law before the 1st April, 1898,\* and before the 1st July, 1899, respectively.

Applications  
for extension  
of time.

The coolies or other Asiatic coloured persons must themselves apply for such extension, stating reasons.

That if application be made to that end it will be taken in favourable consideration in order to meet the coolies and other Asiatic coloured persons who carry on trade to set aside (*beschikbaar stellen*) a piece of ground in a location for the erection of a bazaar or a covered building with shops.

In connection with the foregoing resolution it is moreover notified that the coolies or other Asiatic persons who maintain that they do not fall under the terms of article *two (b)* and *two (d)* of the said amended Law No. 3, 1885, either because they entered into a long lease years ago, the period of which has not yet expired, or because they have obtained transfer, are invited to give notice thereof fully setting out the reasons thereof before the 1st January, 1899, to the Landdrost or Mining Commissioner, who shall report same to the Government.

† See Government Notice No. 208 of 1899 (*infra*).

\* This should obviously be "1899."

## 1899.

## LAW No. 4, 1899.†

## FOR REGULATION OF LAND TAXES.

(Approved by the Hon. First Volksraad by Article 565 of its Minutes, dated 20th July, 1899.)

1. The registered owner or owners of a quitrent farm, or portion thereof, or piece of land situate beyond the boundaries of a proclaimed township or stands township shall yearly pay therefor as land tax an amount of one shilling and sixpence for each 100 morgen or portion thereof.

Tax on quitrent farm.

The land tax for freehold farms shall remain unaltered.

2. So long as a quitrent farm or portion thereof is unsurveyed the land tax due thereon shall be paid according to the hitherto existing laws.

Tax on unsurveyed farm.

3. When the registered owner or owners referred to in article *one* is or are domiciled abroad (buitenslands) the land tax shall be estimated at double the amount (viz., three shillings) per 100 morgen defined in article *one*.

Tax payable by foreign owners.

4. The provisions of articles *one* and *two* shall also apply to farms or portions thereof, or piece of land registered in the name of the Superintendent of Natives in trust for natives, and the tax will have to be paid by such natives.

Tax on land held in trust for natives.

5. \*The registered owner or owners of an erf or portion thereof, situated within the boundaries of a proclaimed township, shall pay yearly as land tax:—

Tax on erven.

(a) For each erf with a building or buildings thereon, and for each portion of an erf larger than a half erf, with building or buildings thereon, £1 10s.;

(b) for each half erf or portion less than a half erf with building or buildings thereon, 15s.;

(c) for each erf not built upon, and for each portion of an erf not built upon larger than half an erf, 10s.;

(d) for each half erf or portion less than half an erf not built upon, 5s.

6. The collection of the land tax shall take place according to the laws and Volksraad Resolutions relating thereto.

Collection of land tax.

7. All legal enactments conflicting with the provisions of this law are hereby repealed, with exception of the provisions in this connection laid down with reference to the tax on burgher right erven.

Repeal.

8. This law comes into operation on 1st January, 1900.

† See Act No. 2, 1909.

\* Taxes on erven, Pretoria, abolished by Act No. 18, 1908, section *three*, and on erven within certain other Municipalities by Act No. 2, 1909, sections *one* and *two*; see also Act No. 33, 1907, section *twelve*.

LAW No. 7, 1899.

REGULATING THE COMPETENCY OF NATIVE COMMISSIONERS AND  
SUB-COMMISSIONERS FOR NATIVES TO PUNISH LEGAL  
PRACTITIONERS IN THEIR COURTS FOR ANY IMPROPER  
CONDUCT IN THOSE COURTS.

(Approved by the Hon. Second Volksraad, Article 624 of its Resolutions, dated 26th July, 1899, and accepted as notice by the Hon. First Volksraad, Article 830 of its Resolutions, dated 11th August, 1899.)

Jurisdiction  
by Native  
Commissioner  
over practi-  
tioner in his  
court.

1. The Commissioner of Natives or Sub-Commissioner of Natives may punish any agent or practitioner who is guilty of contempt of court with a fine not exceeding £10, or, upon non-payment, with imprisonment not exceeding fourteen days.

Subject to the provisions with reference to appeals, it is open to the agent to appeal to a higher court against any order of the Commissioner or Sub-Commissioner of Natives given against him under this article. In case of attorneys and advocates practising in these courts, the Commissioner or Sub-Commissioner of Natives is competent, in respect of proved misconduct or otherwise, to refuse to allow them to practise in such court, subject, however, to the right of appeal.

2. This law comes into operation immediately after publication in the *Staatskoerant*.\*

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\* Published in the *Staatskoerant* of 9th August, 1899.

*B.W. 7 of 1899*

## LAW No. 8, 1899.†

BEING SUPPLEMENT TO LAW No. 2, 1882.

(Approved by the Hon. Second Volksraad, Article 668 of its Minutes, dated 28th July, 1899, and accepted as notice by the Hon. First Volksraad, Article 930 of its Minutes, dated 18th August, 1899.)

1. Poundmasters are hereby most strictly forbidden to sell in their said capacity, under whatever pretext, any stock that has not been delivered to them in terms of the said Pound Law to be detained by them in the pound.

Pound-  
masters may  
only sell stock  
duly  
impounded.

Contravention of this provision shall be punished by a fine of £10, or, upon non-payment thereof, a month's imprisonment.

Penalty.

2. This law comes into operation immediately after publication in the *Staatskoerant*.\*

† See notes to Law No. 2, 1882 (*supra*).

\* Published in the *Staatskoerant* of 30th August, 1899.

## LAW No. 12, 1899.¶

BEING AN AMENDMENT OF AND SUPERSEDING LAW No. 14,  
1895, CONCERNING BILLS OF COSTS IN LAWSUITS.

(Approved and enacted by the Hon. Second Volksraad Article 917, dated 18th July, 1895, and accepted as notice by the Hon. First Volksraad Article 846, dated 6th August, 1895, amended by Second Volksraad Resolution, Article 1078, dated 4th September, 1899, which was accepted as notice by First Volksraad Resolution, Article 1297, dated 20th September, 1899.)

Taxation of costs in Supreme Court and lower courts.

1. All bills of costs in lawsuits in the High Court or Circuit Court shall be taxed by the Taxing Master of the High Court, unless the High Court may otherwise determine, and in the Lower Court by the *Clerk of the Court*.\*

No bill of costs recoverable till taxed.

2. No bill of costs in lawsuits is recoverable in law until after it has been properly taxed.

Notice of taxation.

3. He who desires to have a bill of costs taxed must request the person against whom it is drawn, or his lawful representative, in writing, to be present at that taxation, mentioning the place and time of taxation.

When a bill of costs is one between attorney and client, said notice is not necessary if the client has consented in writing that said taxation shall take place in his absence.

Taxation between attorney and client.

Proof required at taxation.

4. The Taxing Master of the High Court, and the *Clerks of the Lower Courts*† are bound to demand from the person who wishes to have a bill of costs taxed by them the proofs to their satisfaction that the services for which payment is claimed in such bill have actually been rendered.

5. *Repealed by Ordinance No. 9, 1902, section six.‡*

6. *Repealed by Ordinance No. 9, 1902, section four.*

7. *Repealed by Ordinance No. 9, 1902, section four.*

8. *Repealed by Ordinance No. 9, 1902, section four.*

9. *Repealed by Ordinance No. 9, 1902, section six.‡*

10. *The first part of article ten, relating to tariff of charges for Deputy Sheriffs§ has been repealed by Government Notice No. 503, 1903, under Transvaal Proclamation No. 17, 1902, section sixteen.*

¶*Tariff of Stamp Dues in the Office of the Registrar.*

Stamp dues in office of Registrar.

Power to prosecute or defend	...	...	£0	2	0
Substitution of power	...	...	0	2	0
Summons, subpoena, or writ	...	...	0	2	0

¶ See S.V.R.R., 4th September, 1899, Art. 1078 (*infra*).

\* Substituted by Ord. 9, 1902, Sec. 1.

† Substituted by Ord. 9, 1902, Sec. 2.

‡ See Govt. Notice 698, 1908.

§ No charges are now made by the Sheriff.

|| This part of Art. 10 has been omitted in the publication in the *Staatskoerant*; see, however, S.V.R.R. 4th September, 1899, Art. 1078.

Any pleadings ... ..	£0 2 0
Petition or notice of application ... ..	0 2 0
Notice of putting a case on the roll ... ..	0 2 0
Sworn declaration ... ..	0 2 0
Certified copy of a document ... ..	0 2 0
Ordinary copy ... ..	0 2 0
Liquid document in provisional cases ... ..	0 2 0
Document in illiquid cases ... ..	0 2 0
Orders and interdicts ... ..	0 5 0
Notice of withdrawal of a case ... ..	0 2 0
Petition for leave to appeal ... ..	0 5 0
Deed of security in case of appeal ... ..	0 2 0
Award of an arbitrator ... ..	0 2 0
Memo. of investigation ... ..	0 2 0

Bills of costs in all cases and applications 1 per cent. on the amount to be taxed.

11. An advocate,\* attorney, or agent, appearing in any case in the Lower Court, shall not be entitled to further costs than

Schedule of fees for practitioners in lower courts.

Demand ... ..	£0 3 0
For drawing of summons and taking charge of case if undefended ... ..	1 11 6
If defended, or witnesses heard, for first day not exceeding ... ..	3 3 0
Each day following thereon not exceeding ... ..	1 11 6
For appearance to note judgment... ..	0 10 6
Drawing power ... ..	0 3 0
For copies, per folio ... ..	0 1 3
Drawing of petition or declarations, per folio ... ..	0 2 6
Copies, per folio ... ..	0 1 3
Drawing of subpoena ... ..	0 5 0
Copies of each ... ..	0 2 6
Notice of putting on the roll ... ..	0 3 0
Notice of withdrawal ... ..	0 3 0
Notice of taxation ... ..	0 3 0
For attending taxation whether defended or not ... ..	0 5 0
Drawing and issuing writ ... ..	0 5 0
Copies of writ ... ..	0 2 6
Writ for personal arrest ... ..	0 10 0
Drawing of "Deed de Restituendo" ... ..	0 5 0

For collection of moneys, 5 per cent. commission for £100 or portion thereof, and for amounts over this 2½ per cent.

12. Where judgment is given by the Lower Courts for the payment of money, the attorney or agent shall not be entitled to costs of collection.

No costs of collection claimable if judgment given.

13. †No attorney or agent practising in the Lower Courts shall be entitled to receive payment on his bill of costs before

Penalty for accepting payment of untaxed bill.

\* As to Advocates, see Act 30, 1908, Sec. 7, and Government Notice 593, 1909.

† Additional fees by Clerks of Courts have been made by Government Notice 784, 1906, under Proclamation 21, 1902, Sec. 51.

the same shall have been taxed, under pain of suspension or being struck from the roll, according to the nature of the case.

Tariff of stamps in office of Registrar of Lower Courts.

*Tariff of Stamps for the Office of the Registrar of Lower Courts.*

Power to sue or defend ... ..	£0	1	0
Substitution of power ... ..	0	1	0
Summons ... ..	0	1	0
Subpœna ... ..	0	1	0
Writ ... ..	0	2	0
Each document submitted in a case ...	0	1	0
Judgment ... ..	0	2	0
Petition or notice of application ...	0	2	0
Affidavit ... ..	0	2	0
Certified copy of a document ... ..	0	1	0
Orders and interdicts ... ..	0	2	0
Notice of withdrawal of a case ... ..	0	1	0
Deed of security in case of appeal ...	0	1	0
Bills of cost in all cases and applica- tions, 1 per cent. on the amount to be taxed.			
Consent to judgment ... ..	0	1	0
Notice of appeal ... ..	0	7	6

Tariff for messengers.

*Tariff for Messengers of Court.*

*Civil Cases.*

For registration of each summons ...	£0	0	6
Return of each service ... ..	0	1	0
Effecting any service ... ..	0	1	6
Effecting a personal arrest ... ..	0	10	6
Drawing and executing a deed, surety- ship, or guarantee ... ..	0	4	0
Taking of inventory, not exceeding 100 words, with copy ... ..	0	2	6
Each following 100 words ... ..	0	1	0
If no security is given and the goods have to be taken care of by some one, per diem ... ..	0	5	0
If the goods are removed, the necessary costs of conveyance, store rent, etc.			
Notice in the <i>Gazette</i> and copy, besides the costs of publication ... ..	0	2	0
Execution of a judgment for eviction ...	0	10	6
Laying an attachment on goods ... ..	0	10	6
Horse hire, per hour ... ..	0	4	6

When the messenger in the same case has at the same time to make more than one service, he is, besides 1s. for registration of each summons and 1s. return of each service, entitled to 2s. 6d. for the person and 4s. 6d. per hour for horse hire, reckoned according to the distance which he actually has to travel.

Every judgment in execution placed in the hands of the messenger, but satisfied before attachment, 5s.

After attachment, but where after advertisement of sale no sale takes place, 1 per cent. on the amount of the judgment only, without including costs.

After attachment and sale, 2½ per cent. on the amount realised.

#### *Criminal Cases.*

Where the messenger draws a salary from the Government, he shall, in criminal cases, be entitled only to 4s. 6d. per hour for horse hire.

#### *General Provisions.*

14. No messenger can demand payment under this tariff except only after his account shall have been duly taxed by the Registrar of the Landdrost Court of his district.

Messenger's account to be taxed before its payment.

15.\* If one-fourth of a bill of costs has been taxed off by the official competent thereto, the attorney or agent for whom the bill is taxed shall pay *all* costs with reference to the taxation of said bill. Costs of taxation shall be the costs connected with the drawing of the bill of costs, the attendance at the taxation thereof, and the stamps payable thereon.

Penalty if more than one-fourth of bill is taxed off.

When the half of a bill of costs is taxed off the taxing official shall notify the same to the judge before whom the attorney or agent is practising who shall act according to circumstances (naar bevind van zaken).

If one-half is taxed off it must be reported to court.

The Taxing Master of the High Court or Circuit Court, or the Registrar of the Lower Court or Clerk of the Landdrost shall see to it that services which were unnecessary are not charged for in bills of costs, except in bills of costs between attorney and client, if it appears in writing that the client instructed the attorney to perform such services.

No unnecessary work to be allowed between party and party.

If one-fourth of a bill of costs tendered for taxation by a sheriff or messenger is taxed off, the sheriff or messenger shall be mulcted in a fine equal to the amount which has been taxed off, and in case of repetition, double the amount so taxed off.

Penalty if one-fourth of bill of sheriff or messenger is taxed off.

Should it appear that the Taxing Master of the High Court or Circuit Court or the Registrar or Landdrost Clerk of the Lower Court has intentionally approved of one or more items in a bill of costs which should not have been allowed, or even if gross negligence has been committed by him in this respect, the judge or the court under which he serves shall fine him according to circumstances to any amount not exceeding one-fourth of the bill of costs, and in case of repetition he may be discharged from his office.

Penalty for improper or negligent taxing by taxing officers.

16. *Repealed by Ordinance No. 9, 1902, section six.*

17. *First paragraph repealed by Ordinance No. 9, 1902, section six.*

If one of the parties is not satisfied with the taxation of a bill of costs by the Registrar of a Lower Court or Landdrost

Revision of taxation.

\* This article has been repealed by Ordinance 9, 1902, Sec. 6, except in so far as it refers to Lower Courts.

Clerk, he may likewise within fourteen days after completion of the taxation apply by way of motion to the inferior judge under whom such registrar serves.

18. *Repealed by Ordinance No. 9, 1902, section four.*

Transition  
provisions.

19. The remuneration for services charged in the bills of costs mentioned in this law, and performed before the date of the coming into operation of this law, shall be calculated according to the tariffs at that time in force.

20. This law comes into operation immediately after publication in the *Staatskoerant*.\*

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\* Published in *Staatskoerant* of 27th September, 1899.

## LAW No. 13, 1899.

## BEING TARIFF FOR MINE SURVEYORS ADMITTED IN THE SOUTH AFRICAN REPUBLIC.

(Approved of by the Hon. Second Volksraad by Article 1054 of its resolutions, dated 1st September, 1899, accepted as notice by the Hon. First Volksraad by Article 1257 of its resolutions, dated 18th September, 1899.)

I.—*Travelling and Working Days.*

A day's travelling shall be deemed to be a journey of at least four hours or twenty-four miles; a working day working time of at least six hours.

Travelling and working day.

II.—*Travelling Expenses and Compensation.*

1. All travelling expenses shall be paid to the mine surveyor, as also the expenses of transport of his instruments, diagrams, and other necessaries. Moreover, £2 10s. shall be paid to him for each travelling day. The amount of travelling expenses and the compensation shall, where the mine surveyor has on one journey visited different mines, be apportioned between the different mines in proportion to the working time.

Travelling expenses and compensation.

2. If the time of travelling is less than four hours, the journey is charged for per hour, calculated at 12s. 6d. per hour.

3. In case of delay in commencing the work, independent of the act (*onafhankelijk van den wil*) of the mine surveyor, he shall be entitled to compensation at £2 10s. per day.

4. If the mine surveyor has commenced his work and he is prevented from proceeding with same, or if he has to perform work which is not mentioned in the tariff, he shall be entitled to a compensation of 15s. per hour, not exceeding, however, the sum of £4 per day.

III.—*Tariff.*A.—*Surveys.*

	No. of Metres.	Above ground.	Below ground.	Tariff of surveys.
1. For selecting and fixing a corner beacon, charge per day or per hour (II 4).				
2. For triangulation with the theodolite calculations of the co-ordinates of the points, plotting of the position on the working plan, and noting the observations and calculations in the survey (field) book, for each angle				
(a) in triangulations ...	—	£0 15 0	—	

	No. of Metres.	Above ground.	Below ground.
(b) in polygon surveys ...	—	£0 10 0	£0 15 0
(c) in correlating the points and directions of lines in surface surveys to points within the mine, by means of plumbing ...	—	0 15 0	1 10 0
(d) in fixing points by observation to three known points, for each point ...	—	3 0 0	—
for each further point surveyed and used in cal- culations ... ..	—	0 15 0	—
(e) if in setting up the in- strument more than one angle is measured, as in case of polygon extensions, in the determination of points by intersection, then a charge is made for each additional angle of ...	—	0 4 0	0 6 0
3. For triangulation with the prismatic compass, calcu- lation, and plotting, as under :			
(a) By reading of graduated arc ... ..			
(b) Without reading of graduated arc ... ..	10	0 1 0	0 1 6
4. For triangulation with a prismatic compass and double observation (by forward and back readings) in order to eliminate local deflection of the magnetic needle, calcu- lation, and plotting, as in			
(a) By reading of the graduated arc ... ..	10	0 2 0	0 3 6
(b) Without reading of the graduated arc ... ..	10	0 1 6	0 2 6
5. For measurement with hanging compass, calculating, and plotting			
(a) with compass and graduated arc ... ..	10	0 1 3	0 2 0
(b) with compass only ...	10	0 1 0	0 1 6
(c) with graduated arc only ... ..	10	0 0 6	0 1 0
(d) for measurement of distances with chain and rod ... ..	10	0 0 4	0 0 6
(e) for laying out of lines	10	0 0 4	—

	No. of Metres.	Above ground.	Below ground.
6. For taking levels			
(a) with the hydrostatic levelling instrument, for each time the instrument is set up (with forward and back readings) ... ..	—	£0 0 9	£0 1 6
for each additional reading ... ..	—	0 0 5	0 0 9
(b) with the vertical graduated circle of the theodolite, for each setting up of the instrument (with forward and back reading) for each additional reading ... ..	—	0 1 0	0 1 6
for each additional reading ... ..	—	0 0 9	0 1 0
(c) with graduated arc, for each reading ... ..	—	0 0 6	0 0 9

The distances measured whilst levelling are charged for according to III 5 (d) or III 7, the laying out of lines by superficial levels in terms of III 5 (e) and the charting per day or hour, in terms of II 4.

7. For an accurate measurement of distance, including check measurements... 10 0 1 0 0 2 6

Base measurements will be charged for by the day or per hour (II 4).

8. Should the surveys referred to in 2-7 be executed in mine workings having an incline of from 20 degrees to 40 degrees, one and a half times as much shall be charged, and in mine workings having an incline of more than 40 degrees, twice as much. A double charge may also be made for surveys for the purposes of a connection between two opposite drives.

9. For plumbing of shafts and measuring the plumb lines in shafts ... .. 10 — 0 4 0

Plumbing for the purpose of transferring levels shall be charged for by the day (II 4).

	No. of Metres.	Above ground.	Below ground.
10. Determining and pointing out the spot for a new shaft or borehole, the direction in which a drive must be driven, or locating the boundary line of the mine at any point underground, if effected with the theodolite, shall be charged for according to 2 (c) and in other cases per day.			

The preliminary work sometimes required for above work shall likewise be charged for per day or per hour (II 4).

11. For tachometrical surveys, for each point determined thereby ... .. — £0 2 6 —

12. If the surveys are executed in very wet or very warm mine workings (above 80° Fahr.) or in mining areas charged with mephitic air or explosive gas (in coal mines) or in low drives (less than 1.25 m. in height) then the survey costs will be increased by one-third, as also for surveys effected between the hours of 8 p.m. and 6 a.m.

13. Surveys executed with other than the above instruments shall be charged for per day or per hour (II 4).

14. In case the mine surveyor has himself paid his assistants (one or more of whom may be a white person), he shall be entitled to bring their wages into account.

The wage of a white assistant shall not exceed the average wage of a white miner, and that of a coloured assistant the average wage of coloured persons by more than one-fourth.

#### *B.—Draughting.*

Tariff of  
draughting.

1. Preparing all descriptions of plans according to survey, as also the filling in of plans, shall be charged for per day (II 4).

2. For copying plans the following tariff shall apply:—  
For every 100 square centimetre portion of the plans filled in:

On a scale of 1:100 to 1:1000, 1s. 6d.

On a scale of 1:1000 to 1:4000, 3s. 6d.

On a scale of 1:4000 to 1:10,000 and above, 6s.

Topographical draughting shall be charged for per hour or per day (II 4).

No charge shall be made for that portion of the plan which is not drawn upon but merely contains the tie lines.

3. Should plans be reproduced in a smaller or larger scale, twice the amount allowed in B 2 shall be allowed for an eightfold or less change of the linear dimensions, and for a greater change two and a half times the said amounts.

4. For the copying of plans on tracing paper or linen, half the price allowed for the copying on paper may be charged.

5. For colouring plans framed on a scale of from 1:100 to 1:1000 one-third, and on a scale of upwards 1:1000 one-fourth more than the amount allowed in B 2 may be charged.

6. Instead of charging per tariff, a charge may in all cases be made per day or per hour for draughting work (II 4).

7. All expenditure incurred by the mine surveyor for transmission of plans, purchase of draughting paper, portfolios, and other requisites, may be brought into account by him.

#### IV.—*Concluding Provisions.*

8. Mine surveyors and employers are at all times entitled to enter special (vrije) agreements.

This law shall come into operation immediately after publication in the *Staatskoerant*.\*

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\* Published in *Staatskoerant* of 27th September, 1899.

## LAW No. 18, 1899.

(Approved by the Hon. First Volksraad by Article 1418 of its Minutes dated 29th September, 1899.)

Preamble.

Whereas it has appeared necessary to make certain provisions, whereby the property of persons who render themselves guilty of crimes against this Republic may be declared forfeited, it is hereby enacted as follows:—

Penalties for crimes of riot, public violence, high treason, or laesio majestatis.

\*1. Every person within this Republic who is guilty of the crime of riot (oproer), public violence, high treason or laesio majestatis, or of inciting or stirring up to the commission of any of these crimes, shall be subject to the penalties fixed by the General Law for the said crimes. All properties, whether movable or immovable, belonging to such person, or to which he directly or indirectly may or can lay claim within this State at the time of the commission of the said crimes or at any time thereafter, may be wholly or in part declared forfeited in favour of the State without prejudice, however, to the rights of bondholders, provided such bond was passed and registered before the crime was committed.

And confiscation of all property. Saving rights of mortgagees.

On proof of instigation to above crimes all property may be confiscated.

2. When it is proved to the satisfaction of a competent court that any person or persons sojourning (zich ophoudende) beyond the limits of the State has instigated, incited, or stirred up any inhabitant of this State to the commission of riot (oproer), high treason, public violence, or laesio majestatis, all properties, whether movable or immovable, belonging to such person or persons, or to which they directly or indirectly may or can lay claim within this State at the time of the commission of such crimes or at any time thereafter, may be either wholly or in part declared forfeited in favour of the State, without prejudice, however, to the rights of bondholders, provided such bond was passed and registered before the crime was committed, and without affecting the punishments which are prescribed in respect of such crimes according to the laws of this Republic.

Saving rights of mortgagees.

Confiscation on proof of plotting with foreign powers.

3. When it is proved to the satisfaction of a competent court that any person or persons, being beyond the limits of this State, has concerted plots (aanslagen) or has entered into an understanding with foreign powers or their representatives in order to persuade them to commit hostile acts or to undertake war against this Republic, or to provide them with means thereto or make attempts to commit treason or to commit any act of hostility against this Republic, all their property, whether movable or immovable, or any claims to any such property, whether direct or indirect, to which such persons may or can lay claim at the time of the commission of the above crimes or at any time thereafter, may wholly or in part be declared forfeited in favour of the State, without prejudice to

\* See Ordinance No. 1, 1903, section 212.

the rights of bondholders, provided such bond was passed and registered before the crime was committed, and without affecting the punishments which are prescribed according to the laws of this Republic in respect of the crimes of riot, public violence, high treason, or *laesio majestatis*. Saving rights of mortgagees.

4. When it is proved to the satisfaction of a competent court that any burgher of this Republic, after notice has been given him by the military officer concerned to hold himself in readiness for any commando or military service, or is ordered with a view thereto not to leave his ward, or after being commandeered for such service has left the country without written leave from the said military officer concerned or from the Government, all his property, whether movable or immovable, or any claims to any such property, whether direct or indirect, to which such burgher may or can lay claim at the time of the commission of such act or at any time thereafter, may wholly or in part be declared forfeited in favour of the State, without prejudice to the rights of bondholders, provided that such bond was passed and registered before the crime was committed and without affecting the punishments prescribed by other laws for such act. Evasion of commando duty.

May be punished by confiscation.

Saving rights of mortgagees.

5. All legal enactments, in so far as they are in conflict with the above-mentioned provisions, are hereby repealed. Repeal.

6. This law comes into operation immediately after publication in the *Staatskoerant*.\*

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\* Published in *Staatskoerant* of 11th October, 1899.

## FIRST VOLKSRAAD RESOLUTION, 8th MARCH, 1899.

Article 270. The First Volksraad resolves to approve of the section now on the order, as also item 11 of the report of the Estimates Commission; the Raad resolves further to instruct the Government to act in accordance with said item 11 of the report of the Estimates Commission.

Said item reads:—

One kind of stamp to be used for postal and revenue purposes.

With reference to the expenditure for the printing of stamps £1200 (Chapter XXXII, page 47), your commission has obtained information as to the desirability of adopting one kind of stamps which could serve for all purposes as postage, revenue, telegraphs, etc.

Such a measure would be a great convenience to the public; the cost of the printing of stamps would be reduced, and the keeping of books by the Master of Stamps would be simplified thereby.

## FIRST VOLKSRAAD RESOLUTION, 10th MARCH, 1899.

Article 274a. The First Volksraad resolves to approve of the section on the order, as proposed by Executive Council, and not to approve of item 12 of the report of the Estimates Commission; and further instructs the Government to carry out the resolution concerned as to the establishing of a university.

Establishment of a university.

## FIRST VOLKSRAAD RESOLUTION, 13th MARCH, 1899.

Article 295. The First Volksraad resolves to approve of section *fifty-three* "Special Expenditure" as proposed by the Estimates Commission, and agrees with item 14 of the report of the Estimates Commission.

Said item 14 reads:—

Subsidized societies to render accounts to be published in *Staatskoerant*.

Subsidy to Agricultural Societies, £15,000 (Chapter LI, p. 55). Your Commission deems it desirable that a rule be established that the subsidized societies shall render account of the amounts granted, for example, by publication of a balance-sheet and account in the *Staatskoerant*, and that their books shall be subject to inspection by the Department of Inspection.

## FIRST VOLKSRAAD RESOLUTION, 5th JULY, 1899.

Article 417. The First Volksraad, having considered Government letter of 29th May, 1899, containing application for the construction of an electric tramway for the conveyance of quartz from the mine to the battery, considering First Volksraad Resolution, article *one thousand eight hundred and fifty-five* of 1898;

Government authorized to sanction construction of electric trams for conveyance of ore.

Resolves to grant the Executive Council the same authority and under the same conditions for the construction of electrical trams for the conveyance of quartz on the mines as given by article *one thousand eight hundred and fifty-five* of the Resolutions of the First Volksraad of 1898 as to steam trams.

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FIRST VOLKSRAAD RESOLUTION, 30<sup>TH</sup> AUGUST, 1899.

Article 1016. The report of the Petition Commission was approved by acclamation.

Said report reads:—

A petition has been sent to your Assembly requesting cancellation of all concessions, and more especially the iron concession.

Your Commission is of opinion that as long as concessionaries comply with their obligations according to contract it is impossible to cancel such concessions according to this request. The Commission, however, recommends to your assembly to refer this petition to the Hon. Government with instructions that if there are concessions, the conditions and obligations of which are not complied with by the concessionaries, to cancel these concessions, if the law permits such.

Concessions, the terms of which have not been complied with, to be cancelled.

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SECOND VOLKSRAAD RESOLUTION, 4<sup>TH</sup> SEPTEMBER, 1899, Article 1078.

(Accepted as notice by First Volksraad Resolution, 20th September, 1899, Article 1297.)

The Second Volksraad having considered Government letter dated 31st August, R.8878/97 B.B.3030/99 now on the order, requesting that the Raad should pass a resolution whereby article *nineteen* of Law No. 14, 1895, shall be repealed, since an error has taken place, because article *thirteen* of Law No. 14, 1895, should have been amended instead of article *ten* of Law No. 14, 1895;

Repeal of Art. 19 of Law 14, 1895.

Resolves to hereby repeal the Second Volksraad Resolution passed under article *five hundred and fifty-one*, dated 19th July, 1899; to approve of this tariff of stamp dues for the office of the sheriff for inferior courts as proposed by the Government, and to instruct the Government to have the same embodied in article *thirteen* of Law No. 14, 1895, and to cause the whole Law No. 14, 1895, together with this amended article to be published as Law No. , 1899, and then to repeal Law No. 14, 1895, on publication.

Tariff of stamp dues for office of sheriff approved of.

The said proposal of the Government was to amend the tariff of stamp dues for the office of the sheriff of inferior courts (article *thirteen* of Law No. 14, 1895) as follows:—

Power to prosecute or defend	...	...	£0	1	0
Substitution of power	...	...	0	1	0
Summons	...	...	0	1	0
Summons of witnesses	...	...	0	1	0
Writ	...	...	0	2	0
Each document submitted in a case	...	...	0	1	0
Judgment	...	...	0	2	0
Petition or notice of application	...	...	0	2	0
Affidavit	...	...	0	2	0
Certified copy of a document	...	...	0	1	0
Orders and interdicts	...	...	0	2	0
Notice of withdrawal of a case	...	...	0	1	0
Deed of security in case of appeal...	...	...	0	1	0
Bills of cost in all cases and applications,					
1 per cent. on the amount to be taxed.					
Consent to judgment	...	...	0	1	0
Notice of appeal	...	...	0	7	6

FIRST VOLKSRAAD RESOLUTION, 25TH SEPTEMBER, 1899.

Article 1359. The First Volksraad having considered the petitions from Middelburg, together with the Commission report thereon now on the order;

Resolves to approve of the report and recommendation of the Petition Commission.

Said report reads:—

Commissioner of Natives not allowed to supply natives to the mines.

Two petitions, with eighty-nine signatures, have been sent in to your Assembly, requesting that Commissioners and Sub-Commissioners of Natives may no longer be permitted to hire out or to supply natives to the mines against a reward.<sup>1</sup>

Your Commission feels itself compelled to agree with this request, and recommends to your Assembly to instruct the Government to take such measures that such may be prohibited in future on pain of fine.

FIRST VOLKSRAAD RESOLUTION, 28TH SEPTEMBER, 1899.

Delegation of authority to Government during war.

Article 1416a. The First Volksraad assembled in secret session, having considered both the Government letters concerning the proclamation of martial law, and concerning the request for delegation of authority (*volmacht*) during time of war;

Resolves to approve of both the letters aforesaid, and to give the Government authority to publish\* this resolution when it deems it expedient.

\* Published in *Staatskoerant*, 3rd November, 1899, and together with the letters referred to in its text it was published in *Staatskoerant*, 4th November, 1899; see *Crow vs. Aaronson* (1902, T. S. 247.)

† REGULATIONS FOR TOWNS IN THE SOUTH AFRICAN REPUBLIC, being amendment of and addition to the Regulations drafted in 1858, and confirmed by Volksraad Resolution, Article 77, dated 12th May, 1890, and of those accepted as notice by the Hon. First Volksraad by Article 1013 of 14th July, 1896, since amended by the Hon. the Second Volksraad by Article 1050 of its Minute dated 1st September, 1899, and accepted as notice by the Hon. the First Volksraad by Article 1256, dated 18th September, 1899.

1. *Repealed by Ordinance 14, 1904, section one.*

Town commonage.

2. *Repealed by Ordinance 14, 1904, section one.*

Grazing of cattle.

3. The Landdrost or Town Council shall see to it that the main town water-furrow is in good condition and is kept clean, and where any furrows in the Government erven or grounds or in the streets are necessary they shall cause proper sluices to be made for same in order that the free course of the water through the town may not be hindered or polluted.

Water-furrows.

4. The Landdrosts shall strictly attend to and see to it that the inhabitants of the towns or owners of erven keep the water-furrows running through their erven clean and in good and proper order, so that no nuisance or annoyance may be caused to the other inhabitants or owners of erven by uncleanliness or neglect, and they shall further be obliged and bound to keep the water-furrows in so far as they run along his erf or erven in a good and clean condition.

Duty of inhabitants in regard to furrows.

5. Every possessor or owner of one or more erven may use the water allotted to him, or deal with it, but it shall not be permitted to him to make use of the same outside the hours allotted to him unless he has previously obtained leave from his neighbour or another person entitled to the water, and at the same time every person shall take care in diverting the water that a sufficient stream of drinking water is left in the furrow for household use.

Use of water in town furrows.

6. As soon as the time allotted for the irrigation of an erf has elapsed, the owner or possessor thereof shall be bound and obliged immediately to divert or cause the water to be diverted into the general water-furrow, so that no unpleasantness or annoyance may by neglect thereof be caused to the other inhabitants of erven. And the lower erven, where one of the general water-furrows ends, shall have the right to use the discharge water, subject to the approval of the Landdrost or of the Town Council.

Distribution of water.

† These regulations do not apply within any municipality in which a council has been established under Ordinance No. 58, 1903; see Sec. 72 (2) of that Ordinance.

Drainage to furrows, streets, etc.

7. It is forbidden to cause any damage to sluices or water-furrows, or to meddle in any way whatsoever with those of others, or to dig any hole, ditch, or water-furrow in the streets or on Government grounds unless leave has previously been obtained thereto from the Landdrost or the Town Council.

Bathing in dams and water-furrows forbidden.

8. No one may bathe in any dam, general watercourse, furrow, or ditch, or wash or throw any dirt therein, or cause the water to be polluted in any other way.

Deposit of rubbish.

9. Any person throwing any dirt, rubbish, earth, or ground in any street, public place, or square, without the consent of the Landdrost or the Town Council, shall be obliged to remove the same immediately or to pay the costs of removal of the same and the fines fixed herein.

Pigs and poultry.

10. Pigs and poultry being found in any public water-furrow or dam shall, without exception, be killed.

Dams and springs.

11. The Landdrosts or Town Councillors of the towns shall be obliged to see to it particularly that no damage is done to dams or springs.

Impounding of stray horses or cattle.

12. No horse or live stock shall be allowed to run about at night in any street or public place in the town, and such animal thus found shall or may be sent to the pound, and the ordinary pound fees shall be paid upon its release.

Blocking the way.

13. No wagon or other conveyance shall be allowed either in loading or off-loading to obstruct the passage in a street, nor shall two or more vehicles, wagons, or carts be allowed to stand alongside each other in any street, passage, or thoroughfare, and the owner or driver who is in charge of such conveyance not immediately removing the same shall be subject to the fine fixed herein.

Impeding traffic.

14. It shall not be permitted to anybody to impede in any way the traffic in the streets.

Dead animals.

15. No dead animals which have died from a natural disease, branches, or anything else, may be dragged through the streets of the towns or through the main town water-furrow or water-furrows; and all such dead animals which have so died shall, without delay, be properly removed to or buried on the town commonage. If the owner of such animal, which is found within the limits of the town or the suburbs after proper notice to him by the Landdrost or Town Council, refuses or neglects to remove the same within the period of 12 hours to the place appointed or indicated to him, the Landdrosts or Town Councils shall have the right to have such animal conveyed thither at the cost of such owner, while the owner shall further be prosecuted for contravention of these regulations, unless he shall within twenty-four hours after the death of the animal have notified the same to the Landdrost or Town Council, and have declared himself willing to pay the costs of removal according to tariff.

Depositing and collecting of filth or other offensive objects.

16. No person shall throw or cause to be thrown any dirt or offensive matter on his erf, in the streets, squares, or other public erven in the town in such quantity as might cause an annoyance to his neighbours or the public.

And it is further forbidden within the limits of the village or of the town or suburb to dry skins or hides, or to collect stinking skins, stinking horns, stinking bones or decomposed substances, or to throw, or cause to be thrown, keep, or cause to be kept, any stinking liquids in such quantities that offensive exhalations are thereby occasioned to the annoyance of the public.

17. It is forbidden to prosecute any calling or occupation within the limits, or in the immediate neighbourhood of the town or suburbs, or to carry on any business which gives rise to injurious or offensive exhalations or vapours.

Trades causing offensive exhalations.

18. No timber or firewood shall be left lying on the public streets or squares during the night without consent of or leave obtained from the Landdrost or Town Council.

No firewood or timber to be left in streets.

19. In building houses or other such operations, after due notice and after having obtained leave from the Landdrost or Town Council, one shall be at liberty to use a space of 12 feet of the street for the carrying out of such work.

Erection of buildings.

20. Every owner or possessor of one or more erven shall be obliged to enclose his erf or erven with a wall at least four feet high, or to fence it with four strands of wire, and to keep it in proper order, otherwise he shall not be entitled to compensation for damage occasioned by live stock; further, no willow trees shall be allowed to be planted along the water-furrows.

Enclosure of erven, etc.

21. No person shall be allowed to race in the streets of the towns or to ride faster than at an ordinary slow canter or trot.

Racing in streets prohibited.

22. No person shall be permitted or allowed to carry any loaded gun or other firearm in or through the town, or to fire off the same, or explode dynamite or any explosive substance within a thousand yards from the town.

Firing off guns or using explosives prohibited.

This article shall, however, not refer to police in the execution of their duties, or to such other persons as may be authorised thereto by the Landdrost.

23. Should it be suspected that any uncleanness exists, the Landdrost, or, upon his order, the Town Inspector or other competent official shall have the right to inspect at any reasonable time any erf, house, privy, or room, with the exception of houses inhabited by white people, and to give the owner or occupier orders for the cleansing thereof. In case any person, without stating reasonable cause, refuses or neglects to carry out such orders within the appointed time, the Landdrost, or, upon his order, some other competent official shall have the right to cause such erf, house, room, or privy to be cleaned at the cost and for account of the occupier or owner, provided, however, that if the owner is not the offender, the Town Inspector or official competent thereto shall first warn him as well as the offender.

Sanitary inspection.

24. Any person who within the town at places other than those to that end appointed shall relieve nature in a way as to offend against decency (goede zeden) may be arrested without warrant, and thereafter punished.

Offences against decency.

Pigs.

25. It is forbidden to keep pigs within the limits of the town or the suburbs in such number or in such manner as to be an annoyance to any member of the public.

Slaughtering of animals at slaughter poles only.

26. No butcher by calling may slaughter any animal within the limits of the town or suburbs. All animals shall be slaughtered by him at the slaughter poles appointed by the Landdrost or Town Council.

Shambles, butchers' carts, etc., to be kept clean.

27. All shambles, butcheries, and butchers' wagons or carts, intended for the conveyance of meat, must be kept clean and sweet. Such wagons or carts must be lined with tin. The Town Inspectors or the official competent thereto shall have the right to inspect all butcheries, shambles, and butchers' wagons or carts at all reasonable times.

Tainted foodstuffs.

28. It is forbidden to sell or offer for sale any meat, fish, milk, vegetables, fruit, or any other foodstuff which is unfit for human consumption.

The Town Inspectors or police officers shall, if they consider that such articles are unfit for human consumption, have the right to attach the same immediately, and without delay have the same inspected by the District Surgeon, the Landdrost of the district, the Chief Constable, or a competent expert, and (if after such inspection the articles attached are declared unfit for human consumption) to cause the offender to be prosecuted in the manner laid down in these regulations.

Animals suffering from contagious diseases.

29. All animals suffering from a contagious disease, and found within the limits of the village, town, or suburbs, shall be killed and then buried at the place appointed for that purpose, unless they be isolated immediately after notice to the owner or his representative. Upon refusal or neglect on the part of the owner, the Town Inspectors or police officers shall, upon order from the Landdrost, have the right to have such animals killed and buried at the expense of the owner, who may be further prosecuted for contravention of these regulations.

Cycling on sidewalks.

30. It is forbidden to ride on the sidewalk with a bicycle.

Dangerous buildings.

31. A wall or building abutting on the street or elsewhere, which is insecure or dangerous, shall be demolished by the owner, or repaired or supported in such manner as may be indicated by the local council or Landdrost for account of the owner, who shall moreover be liable to the penalties laid down in these regulations.

Trees on town lands, etc.

32. It shall be punishable to damage or destroy trees or plants growing on the town lands, or planted in a public square or place.

Vehicles left without proper supervision.

33. No vehicle, wagons, or other conveyance, in which any draught animal or animals are inspanned, shall be allowed to proceed in a street or to halt therein without being in proper charge; in case such draught animals are oxen, charge shall be understood to mean a leader. Contravention of this article shall be punished in terms of article *forty-one* of these regulations.

34. No person may disturb the public peace or commit a nuisance by keeping a house of ill-fame or brothel, or by making unnecessary noise, whether by day or night, whether in the street or in a public place, in a public or private building or place where divine service is held. Nor shall he be permitted to use indecent blasphemous words in public. Disturbance of peace and committing a nuisance.
35. It shall not be lawful to permit bitches or female dogs to run about loose while in heat. Bitches.
36. Coloured persons are prohibited from walking on the sidewalks of the streets or on a stoep serving as a sidewalk. Use of sidewalks forbidden to coloured persons.
37. Every male coloured person above twelve years residing in any village or town shall be provided with a printed town pass, containing the name of his master and time of service. Native passes.
38. No coloured person, male or female, may enter or go about in any village improperly clad. Natives to be clad.
39. Coloured persons may not reside in places abutting on (aan) the public streets in a town or village, but it shall be permitted to every householder or owner of an erf to keep in his back-yard the servants he requires for domestic service. Natives not to reside on streets.
40. Any person who by violence hinders or obstructs any official in the execution of his duties under these regulations, may be immediately arrested without warrant, and thereafter punished. Obstructing officials.
41. All contraventions of any provision contained in these regulations shall be punished by a fine not exceeding the sum of ten pounds (£10) sterling, or, in default of payment, by imprisonment for a period not exceeding three months. Penalty clause.
42. The Landdrost, Assistant Landdrost, Resident Justice of the Peace, or official with like jurisdiction, shall have jurisdiction to try contraventions of these regulations by way of summary process. Procedure.
43. These regulations shall come into operation immediately after publication in the *Staatskoerant*.\*

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PROCLAMATION dated 14th February, 1899.†

I Stephanus Johannes Paulus Kruger State President of the South African Republic proclaim and make known that it has been resolved with advice and consent of the Executive Council by virtue of article *one hundred and sixty-eight* of its minutes dated 13th February, 1899, and subject to further approval of the Hon. First Volksraad to establish a new town on the farm Rietvlei and under the name of Louis Trichardt. At that place there shall first be surveyed a number of fifteen hundred (1500) erven of the size of 120 feet by 240 feet each with four squares. From these erven there shall first be

Proclamation of Louis Trichardt.

Survey of erven.

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\* Published in *Staatskoerant* of 11th to 25th October, 1899.

† See Ordinance No. 25, 1904.

Reservation for churches, schools, and Government buildings.	reserved for church and school and other Government purposes, all erven situate on or adjoining (rond om) those squares and then the half of the other erven shall be laid out and granted to the burghers of the land: to those who have taken part in the wars and to others who apply for same to the Hon. Government, as follows:—
Allotment of erven to burghers.	(a) Each burgher or other person shall have the right to occupy two erven, and shall become owner of same by occupation, and shall be entitled to purchase or acquire two more erven from the Government, for which two erven he shall not require new occupants as he shall be considered as sufficient occupant for the four erven as aforesaid; but it shall not be permitted that a person shall occupy more than four erven under one name.
Price.	(b) The price to occupiers at which they may acquire possession of two Government erven under their occupation shall not exceed £10. The erection of public buildings, shops, butcheries, etc., includes the right of occupants to take possession of such erven or portions of same, but does not constitute the right of occupation, and does not fall under (wordt niet gerekend) above occupation rights, but the Hon. Government shall retain the right to sell by public auction or otherwise or to let erven for the purpose of shops and other businesses.
Right to water.	(c) All erven situate below the water-furrow shall in proportion have a reasonable right to the water-furrow. (d) Those situate above the water-furrow can make no claim to water leading.
Occupation of erven.	(e) As soon as an occupant settles on open erven he shall point out to the Justice of the Peace or the person competent thereto which erven he desires to occupy, which will then be noted (aangetekend) and booked for him, but such erven shall only become his property on bona fide occupation and compliance with the law, etc.

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PROCLAMATION of 25th April, 1899.

Native locations. Whereas Law No. 3 of 1885, article *two (d)*, gives the right to the Government to appoint as residence, for sanitary purposes, certain streets, wards, and locations to persons belonging to one of the native races of Asia, in which are included so-called coolies, Arabs, Malays, and Mohamedan subjects of the Turkish Empire.

Whereas according to the decision of the High Court *in re* Tayo Hayee Klan Mahomed and others, plaintiffs, and F. N. Reitz, *N.O.*, defendant, this appointment can be made for business as well as for residential purposes.

Whereas the Government has deemed fit to appoint such streets, wards, and locations for said purposes in, at, or on the proclaimed or established towns or stands townships, and the same have been surveyed and put in order.

Whereas it is desirable for the proper control of the sanitary condition of the streets, wards, and locations, appointed as aforesaid, that the same shall be placed under the local authority or administration.

Now therefore I, Stephanus Johannes Paulus Kruger, State President of the South African Republic, with advice and consent of the Executive Council, as will appear from article *four hundred and twenty* of its minutes, dated 24th April, 1899, proclaim and enact as follows:—

The streets, wards, and locations in, at, or adjoining the towns or stands townships appointed and surveyed as residential and business places for the said persons which do not already form part of such towns or stands townships, and which do not already fall under the local authority or administration, shall from this date form part of such towns or stands townships, and be placed under such authority or administration, be it whether such is the local Landdrost, Mining Commissioner, Responsible Clerk, or any Town Council or Town Administration.

Their administration.

#### PROCLAMATION dated 25th November, 1899.

Whereas it is necessary for the protection of burghers and inhabitants of this State who have taken out policies of life insurance, and who are called up for commando or war service, that those policies should not lapse by reason of non-payment of premiums on same;

Policies of life insurance of burghers on commando.

And whereas authority has been granted by Resolution of the Hon. the First Volksraad, article *one thousand four hundred and sixteen (a)* of its minutes, dated 28th September, 1899, to adopt measures such as these;

So therefore I Stephanus Johannes Paulus Kruger, State President of the South African Republic with advice and consent of the Executive Council, as will appear from article *nine hundred and eighty-seven* of its minutes, dated 24th November, 1899, hereby proclaim and enact the following:—

Every life insurance company established in this State shall be obliged to act according to and be bound by the following provisions and obligations, in addition to those imposed upon them by Law No. 8, 1898, to wit:

1. All policies of life insurance issued to burghers or inhabitants of this State shall be and remain valid and of force from the time that those burghers or inhabitants are called up for commando or war service, or are engaged in same, the amount therein insured with additions or profits being claimable and recoverable at the decease of the insured against the insurance company which has issued such policies notwithstanding that the premiums due on same may be unpaid at the time that the burgher insured under such policies may happen to die (moge komen te overlijden).

Remain valid even if premiums unpaid.

Deductions.

2. The company which has issued the said policies shall, however, be entitled

(a) to deduct from the amount insured under any policy before the payment thereof all premiums owing thereon at the time of the decease of the insured person;

(b) to demand immediately peace shall have been concluded payment of all arrear premiums on any policy, the payment of the premium of which shall have fallen in arrear during the commando or war service of the person insured; if such payment shall not be made within two months the policy may be regarded by the company as lapsed, and dealt with according to the regulations of the company concerned, in accordance with the regulations applicable thereto.

Payment of overdue premiums.

3. In accordance with article *six* of Law No. 8, 1898, all insurance companies whose head office or place of business is beyond this State must choose *domicilium citandi et exccutandi* (that is the place where they can be cited and excussed) in this State, and give notice thereof in the *Staatskoerant*. It is therefore suggested that persons who are insured in such companies should (in case it should be difficult to find an agent) tender or pay their overdue premiums at the places in this State so indicated.

4. These provisions come into operation immediately after publication in the *Staatskoerant*.\*

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GOVERNMENT NOTICE No. 208, † dated 25th April, 1899.

With reference to Government Notice of 19th November, 1898, No. 621, published in *Staatskoerant* No. 621 of 23rd November, 1898, the following is hereby still made known for general information:—

Asiatics to reside and carry on business in locations by 1st July, 1899.

1. The coolies, Arabs, and other Asiatic coloured persons who do not as yet dwell and carry on business in the streets, wards, and locations thereto appointed, but in conflict with the law dwell and carry on business in a town or stands township outside the streets, wards, and locations appointed thereto, or in any other place not thereto appointed outside a town or a stands township, shall before the 1st July, 1899, proceed to dwell and carry on business in the streets, wards, and locations thereto appointed, according to Law No. 3 of 1885 as to coolies, Arabs, and other Asiatics, and *inter alia* article 2 (*d*) which after amendment by Volksraad Resolution article *one thousand four hundred and nineteen* of 12th August, 1886, reads as follows:—

“The Government shall have the right for purposes of sanitation to assign to them (namely the coolies, Arabs, and other Asiatic coloured persons) certain streets, wards, and locations in. This provision does not apply to those who live with their employers.”

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\* Published in *Staatskoerant* (Extraordinary), 27th Nov., 1899.

† See Government Notice No. 621, 1898 (*supra*).

2. In terms of the aforesaid, the coolies, Arabs, and other Asiatics shall, after 30th June, 1899, only be able to obtain a licence for a business in streets, wards, and locations appointed according to law. After that licence issued in locations only.
3. Coolies, Arabs, and other Asiatics who now still carry on business outside the streets, wards, and locations thereto appointed, shall have to take out a licence for that purpose until 30th June, 1899, after that date only such licence shall be issued to them to carry on a business in streets, wards, and locations appointed according to law.
4. Hawkers' licences may be issued to the coolies or other Asiatic coloured persons who live in the streets, wards, and locations thereto appointed before the quarter ending 30th June, 1899. Hawkers' licences.
5. Coolies, Arabs, and other Asiatics who live on farms and carry on business outside a town or outside a stands township obtain extension till 1st July, 1899, to remove their dwelling and business to streets, wards, and locations appointed in terms of the law; they must, however, also take out a licence for their business until 30th June, 1899. Asiatics residing or carrying on business on farms.
6. After the date fixed for this purpose, 30th June, 1899, no licences for business or carrying on trade outside streets, wards, and locations appointed thereto shall be issued to the coolies, Arabs, and other Asiatics concerned, and those who after said date carry on business or trade without licence outside streets, wards, and locations appointed thereto, shall be punished according to law. No licences save in locations after 30th June.
7. Coolies, Arabs, and other Asiatics who are of opinion that they can lay claim to further extension by reason of contracts entered into or otherwise shall make application thereto, stating reasons, at least six weeks before 1st July, 1899, to the Landdrost or to the Mining Commissioner, who shall give notice thereof to the Government, with his comments and advice. Applications for extensions.
8. In the same manner coolies, Arabs, and other Asiatics who are of opinion that they do not fall under the terms of article 2 (b) and 2 (d) of said amended Law No. 3 of 1885, either because they have before 1889 entered into a long lease, the period of which has not yet expired, or because they have obtained transfer, shall give notice, fully stating reasons thereof, at least six weeks before 1st July, 1899, to the Landdrost or the Mining Commissioner, who shall give notice thereof to the Government, with his comments and advice. Claims to exemptions.
9. It shall be left to the discretion of the Landdrosts and of the Mining Commissioners to use some consideration with reference to the aforesaid date, 1st July, 1899, where it appears that coolies, Arabs, and other Asiatics by the building of dwellings in the streets, wards, and locations appointed thereto, show themselves willing to comply with the law, but cannot as yet have these their dwellings entirely completed within the time appointed. Concessions as to time of moving.

Applications  
for bazaars.

10. The Government is prepared to take into favourable consideration, if application to that effect be made, in order to meet the coolies, Arabs, and other Asiatics who carry on trade, to place at their disposal a piece of ground in the streets, wards, and locations thereto appointed, for the erection of a bazaar or covered building with shops.